

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.02.2020

CORAM:

THE HONOURABLE MR. JUSTICE P.VELMURUGAN

Crl.O.P.No.15120 of 2013
and M.P.No.1 of 2013

Andal Raj ... Petitioner/Accused I
W/o.late Soundarajan.

-Vs-

C.Baleshwari
rep. by Power of Attorney Mr.Chandrasekar.
... Respondent/Complainant

Prayer: Criminal Original petition filed under Section 482 of Code of Criminal Procedure, to call for the records in C.C.No.221 of 2013 pending on the file of the Hon'ble Judicial Magistrate No.VI, Coimbatore and quash the complaint.

For Petitioner : Mr.K.J.Rebello

For Respondent : No appearance.

O R D E R

The respondent filed a private complaint against the petitioner under Section 200 Cr.P.C., for the offence under Sections 403,469, 471 and 420 IPC, before the learned Judicial Magistrate No.VI, Coimbatore. The learned Magistrate took cognizance of the complaint and taken on file in C.C.No.221 of 2013 and issued summons to the petitioner. After receiving the summons, the petitioner has filed the present petition.

2.The learned counsel for the petitioner would submit that civil disputes are pending, one suit filed by the petitioner in O.S.No.1648 of 2012 for bare injunction and another suit was filed by the respondent in O.S.No.1877 of 2012 and both the suits are pending before the learned I Additional District Munsif, Coimbatore. She further submitted that since civil suits are pending before the competent court, the complaint against the petitioner is liable to be quashed. The learned counsel also placed reliance on the judgment of the Hon'ble Supreme Court in the case of Sardar Ali Khan Vs. State of U.P. report in 2020 SCC Online SC 77 and submitted that the facts and circumstances of the case are similar in nature.

3.None appeared on behalf of the respondent. Heard the learned counsel for the petitioner and perused the records.

4. Admittedly, the respondent filed a complaint under Section 200 Cr.P.C., for the offences under Sections 403, 469, 471 and 420 IPC before the learned Judicial Magistrate No.VI, Coimbatore. The respondent has stated that the petitioner has forged the documents and also not allowed the respondent to enter into the premises. The respondent has filed a suit for declaration, as against the petitioner. The petitioner has not filed any suit seeking for declaration, but has filed only bare injunction. The judgment relied upon by the learned counsel for the petitioner will not be applicable to the facts of the case on hand. In that case, though the registered sale deed is of the year 1994, the suit was filed in the year 2008 after lapse of four years and thereafter the complaint has been filed. However, in the present case on hand, the complaint was initially filed before the Commissioner of Police. Since the Commissioner of Police has not taken any action, the complaint was lodged before the jurisdictional Police. Even the jurisdictional Police has not taken any steps, the respondent has filed this private complaint before the learned Judicial Magistrate No.VI, Coimbatore. Since the petitioner has filed a suit for bare injunction, the pending suit is nothing to do with the present complaint. Whether the petitioner has forged the documents or not, are the matters to be decided only after the trial and it cannot be tested before this Court. Under such circumstances, this Court is not inclined to quash the complaint in C.C.No.221 of 2013 pending on the file of the learned Judicial Magistrate No.VI, Coimbatore. It is also informed that the case in C.C.No.221 of 2013 is now transferred to learned Judicial Magistrate No.II, Coimbatore and the next hearing date is on 02.03.2020.

5. Accordingly, this Criminal Original Petition is dismissed. However, the petitioner is at liberty to raise all his defence before the trial Court. Connected miscellaneous petition is also closed.

Sd/-

Assistant Registrar(CO)

//True copy//

Sub Assistant Registrar

rm
To

1.The Judicial Magistrate No.VI, Coimbatore.

2.The Chief Judicial Magistrate, Coimbatore.

+1cc to Mr.K.J.Rebello, Advocate SR.No.10463

CrI.O.P.No.15120 of 2013

PVS (CO)

<https://hcservices.courts.gov.in/hcservices/>
GMI (27/07/2020)