

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.01.2020

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

CrI.O.P.No.2682 of 2010

N.Padmanaban

... Petitioner

Vs.

1. M.Palanisamy
2. K.Varadharajan
3. V.Jayakumar
4. Ramakantha Padiya
5. M/s.Uro India Exports P. Ltd.,
Door No.282, Ravindra Sarathy
Kolkatta Town, Kolkatta
Branch Office at
Tiruppur
6. Mangayarkarasi
7. C.Selvaraj
8. Panneerselvam
9. P.Karthikeyan
- 10.M.Joseph Raj
- 11.K.P.Shanthi

... Respondents

Prayer:Petition filed under Section 482 of Cr.P.C., seeking to call for the records in C.C.No.581 of 2009 on the file of the learned Judicial Magistrate No.VI, Coimbatore and quash the Private Complaint dated 30.10.2007 filed by the first respondent against the petitioner as illegal and in proper.

For Petitioner : Mr.S.K.Rakhunathan

For Respondents: Mr.N.A.Nissar Ahmed for R1

Mr.S.Senthil Kumar for R1 to R4

O R D E R

This criminal original petition has been filed seeking to call for the records in C.C.No.581 of 2009 on the file of the learned Judicial Magistrate No.VI, Coimbatore and quash the Private Complaint dated 30.10.2007 filed by the first respondent against the petitioner as illegal and in proper.

2.The case of the petitioner is that the property originally belonged to Karuppasamy. The accused in collusion with other

accused, jointly executed POA and sold the property to various accused and in which, the petitioner / A10, who is a practising advocate drafted the sale deed. The uncontroverted allegations made in the private complaint and the documents relied thereon, even if they are taken at the face value and accepted in their entirety do not prima facie constitute any offence nor would not reflect commission of any offence i.e. the allegation in the complaint do not make out the ingredients of the alleged offence.

3.The learned counsel for the petitioner would submit that the petitioner/A10 had only drafted the sale deed and the same was presented before the Sub-Registrar for Registration. The petitioner has not participated in any of the crime as alleged by the respondent/complainant. There is no specific averment as against the petitioner with regard to the implication of the petitioner. The learned counsel also relied upon the decision of the Hon'ble Apex Court in (2012) 9 SCC 113, CBI Vs. Narayana Rao.

4.Mr.Nissar Ahmed, learned counsel for the 1st respondent/complainant on instructions submitted that there is specific allegation as against the petitioner. The petitioner being a practising advocate, must aware of the earlier sale deed and without securing the encumbrance certificate from the Registrar, he has mechanically drafted the sale deed.

5.Considering the facts and circumstances and on a perusal of the records, it is clear that the petitioner is an advocate and he has only drafted the sale deed which was presented before the Sub Registrar for Registration. Except this allegation, no other allegation in respect of the alleged crime is stated in the private complaint. In the absence of any allegation, the private complaint pending against the petitioner is unnecessary. Hence, this court is inclined to quash the private complaint filed by the 1st respondent.

6.In the result, this petition is allowed. The Private Complaint dated 30.10.2007 filed by the 1st respondent against the petitioner in C.C.No.581 of 2009 on the file of the learned Judicial Magistrate No.VI, Coimbatore is hereby quashed. Consequently, the connected miscellaneous petitions if any are closed.

Sd/-

Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

kas

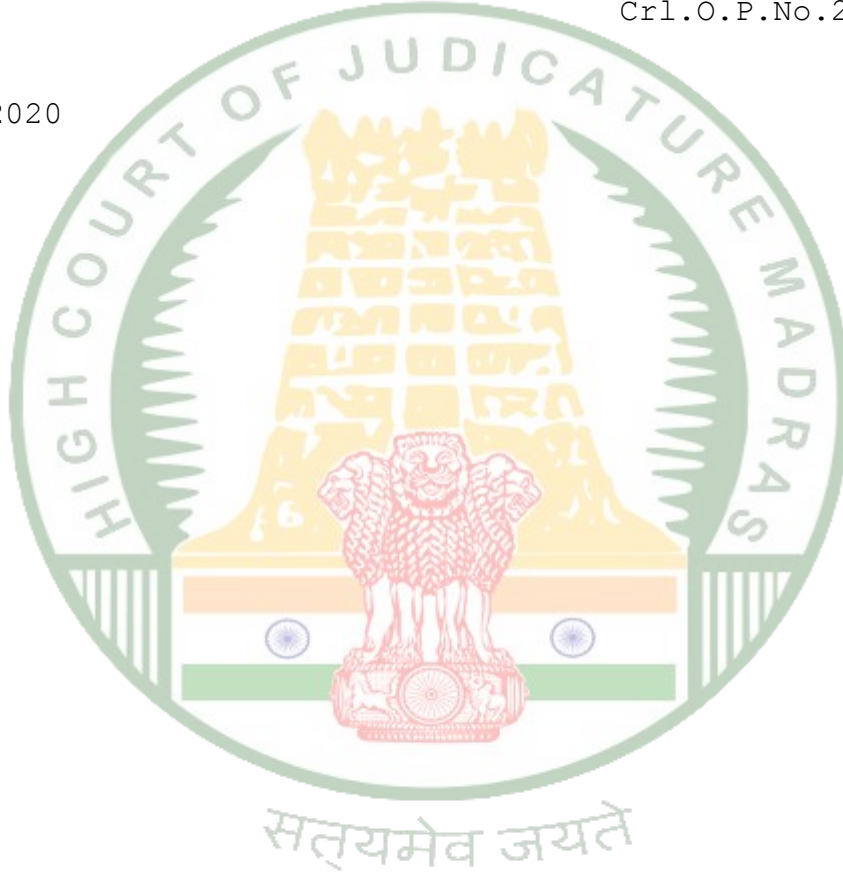
To:

1. The Judicial Magistrate No.VI
Coimbatore
2. The Public Prosecutor,
High Court of Madras,
Chennai 600 104.

+lcc to Mr.N.A.Nissar Ahmed, Advocate, S.R.No.1127
+lcc to M/S.S.Kingston Jerold, Advocate, S.R.No.761

Cr1.O.P.No.2682 of 2010

RR(CO)
CS/19/02/2020



WEB COPY