

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.07.2020

CORAM:

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

Crl.O.P.No.10738 of 2020
and
Crl.MP.No.4477 of 2020

1. P.Jayapal
2. Pattan
3. Thirupathi
4. Lakshmanan
5. P.Ramasamy ... Petitioner

Vs.

1. The Superintendent of Police
Salem.
2. The Deputy Superintendent of Police
District Crime Branch
Salem.
3. The Inspector of Police
Thammampatty Police Station
Salem District.
4. Palaniappan S. ... Respondents

PRAYER:- Criminal Original Petition filed under Section 482 of Cr.P.C. praying to call for the records in connection with the proceedings in Crime No.7 of 2020 now pending on the file of the second respondent herein, which was originally registered as Crime No.90 of 2017 on the file of the third respondent herein and quash the same insofar as against the petitioners are concerned.

For Petitioners : D_R.A.Thiyagarajan
Senior Counsel
for M/s.S.Ramesh Kumar

For Respondents: Mr.S.Karthikeyan
Additional Public Prosecutor.

O R D E R

This petition has been filed to quash the First Information Report in Crime No.7 of 2020 on the file of the second respondent herein.

2. Learned Senior Counsel appearing for the petitioners submitted that on the complaint lodged by the fourth respondent herein, initially the case was registered in Crime No.90 of 2017 on the file of Thammampatty police, third respondent herein, for the offences under Sections 120(b), 415, 416, 417, 420, 468, 472, 191, 192, 199 and 209 of IPC as against the petitioners. The allegation is that the defacto complainant was being the owner of the property to an extent of 3049 sq.ft and old concrete building thereon of an extent of 525 sq.ft comprised in S.No.151/8 New S.No.151/8B, situate at Thammampatty Village, Gangavalli Taluk, Salem District and the first petitioners/accused entered into a Sale Agreement with the defacto complainant to purchase the said property for the total sale consideration of Rs.5,00,000/- (Rupees Five Lakhs only) and on the day of Agreement of Sale, a sum of Rs.4,50,000/- (Rupees Four Lakhs and Fifty Thousand only) was paid as advance. As per the Agreement, the balance sale consideration of Rs.50,000/- (Rupees Fifty Thousand only) to be paid within a period of 18 months and on receipt of such payment, the defacto complainant agreed to execute the Sale Deed in his favour. The Sale Agreement has been fabricated by the accused persons and the accused also forged the signature of the defacto complaint and also they filed the complaint, on the strength of the fabricated agreement and sent summons to some other persons and thereby, obtained decree in their favour. Thereafter, impersonating the defacto complainant, executed the decree. Hence, the complaint.

3. The learned Senior Counsel further submitted that the petitioners challenged the First Information Report in CrI.O.P.No.10122 of 2017 to quash the same. This Court by order dated 05.04.2019 dismissed the quash petition and also directed the petitioners to submit all the relevant documents before the third respondent herein and on receipt of the same, the third respondent is directed to conduct enquiry, complete the investigation and file a final report within a period of three months from the date of receipt of a copy of that order. Subsequently, the defacto complainant, namely, fourth respondent herein filed a petition in CrI.O.P.No.2392 of 2018 before this Court seeking to transfer the investigation in Crime No.90 of 2017 to the DSP, District Crime Branch, Salem. This Court is not inclined to transfer the investigation, however, directed the third respondent herein to complete the investigation in Crime No.90 of 2017 within a period of eight weeks from the date of receipt of copy of the order, by order dated 25.09.2019.

4. The learned Senior Counsel further submitted that even though this Court directed the third respondent by two orders to complete the investigation and file a final report in Crime No.90 of 2017, the third respondent did not complete the investigation and not filed any final report, even till today. Instead of completing the investigation, the second respondent issued summons dated 03.03.2020 to the petitioners as if this Court in CrI.O.P.No.2392 of 2018 ordered transfer of investigation from the file of the third respondent herein. After receipt of the case bundle from the third respondent, the petitioners were called for enquiry. Without any order passed by this Court, the second respondent registered the new, present impugned First Information Report in Crime No.7 of 2020 on the very same set of allegations and proceeding with the investigation. Therefore, he sought for quashment of the First Information Report in Crime No.7 of 2020.

5. Per contra, the learned Additional Public Prosecutor submitted that though this Court refused to transfer the investigation from the file of the third respondent to the file of the second respondent in Crime No.90 of 2017, by the order of the Superintendent of Police, Salem, the investigation has been transferred from the file of the third respondent to the file of the second respondent. On receipt of the entire bundle, due to inadvertence, the second respondent wrongly sent summons to the petitioners as if the investigation was transferred by this Court in CrI.O.P.No.2392 of 2018. Now the second respondent completed the investigation and about to file final report in Crime No.7 of 2020.

6. Heard the learned Senior Counsel appearing for the petitioners and the learned Additional Public Prosecutor appearing for the respondents.

7. This petition has been filed to quash the First Information Report in FIR No.7 of 2020 on the file of the second respondent registered for the offences under Sections 120(b), 415, 416, 417, 420, 468, 472, 191, 192, 199 and 209 of IPC read with Section 155.

8. Originally, the case was registered by the third respondent in Crime No.90 of 2017 for the very same offence as against the accused persons. Thereafter, the petitioners approached this Court to quash the First Information Report in CrI.O.P.No.10122 of 2017 and this Court, by order dated 05.04.2019 is not inclined to quash the First Information Report and dismissed the said petition, however, directed the third respondent to complete the investigation and file final report on receipt of the materials submitted by the petitioners in

Crime No.90 of 2017 within a period of three months from the date of receipt of copy of that order. The fourth respondent subsequently filed Crl.O.P.No.2392 of 2018 before this Court. This Court, by order dated 25.09.2019 refused to transfer the investigation in Crime No.90 of 2017 and directed the third respondent to complete the investigation and file a final report within a period eight weeks from the date of receipt of copy of that order and such investigation shall be monitored on day-to-day basis by the Superintendent of Police, Salem District. Though this Court refused to transfer the investigation, for administrative reasons, the Superintendent of Police passed order transferring the bundle from the file of the third respondent to the file of the second respondent. Accordingly, the bundle was transferred to the file of the second respondent and the second respondent is about to file final report. Due to inadvertence, the second respondent issued summons to the petitioners as if the investigation has been transferred from the file of the third respondent to the file of the second respondent by virtue of the order passed in Crl.O.P.No.2392 of 2018. Though the second respondent wrongly issued summons, that is not the ground for quashing the First Information Report since they already approached this Court for quashing the very same FIR in Crime No.90 of 2017 for the very same set of allegations. Now, only for the administrative reasons, the investigation was transferred to the file of the second respondent and as such, this Court does not find any ground to quash the First Information Report. Therefore, this Court is not inclined to entertain this petition.

9. Accordingly, this Criminal Original Petition is dismissed. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (CO)

//True Copy//

Sub Assistant Registrar

Mra

To

1. The Superintendent of Police
Salem.
2. The Deputy Superintendent of Police
District Crime Branch
Salem.

3. The Inspector of Police
Thammampatty Police Station
Salem District.
4. The Additional Public Prosecutor,
High Court, Madras.

Crl.O.P.No.10738 of 2020
and
Crl.MP.No.4477 of 2020

NSA (CO)
GN (24/09/2020)