

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.02.2020
CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

Crl.O.P.No.6212 of 2014
and
M.P.No.1 of 2014

1.C.Pappathy
2.Rajavel
3.R.Sivamani
4.C.Chitra
5.Ramani

... Petitioners
/Accused 1 to 5

Vs.

1.State represented by its
Inspector of Police,
District Crime Branch, Namakkal.
(Crime No.50/2012).

2.P.Tamilselvi

... Respondents
/Complainants

Prayer: Petition filed under Section 482 of Cr.P.C., seeking to call for the records in C.C.No.32/2014 on the file of the learned Judicial Magistrate No.1, Namakkal and quash the same.

For Petitioners : Mr.R.Karthikeyan

For R1 : Mr.C.Iyyaparaj
Additional Public Prosecutor

For R2 : Mr.K.M.Subramaniam

O R D E R

This criminal original petition has been filed seeking to call for the records in C.C.No.32/2014 on the file of the learned Judicial Magistrate No.1, Namakkal and quash the same.

2.The case of the prosecution is that the petitioners are mother and sisters of the defacto complainant. The 2nd respondent herein preferred a complaint before the Superintendent of Police and the same was forwarded to the 1st respondent for

investigation. Immediately, thereafter, the 1st respondent registered a case in Crime No.50 of 2012 for the offence under Sections 120B, 406 and 420 IPC and after investigation, filed a final report and the same was taken on file in C.C.No.32 of 2014 by the learned Judicial Magistrate No.I, Namakkal. It is the further case of the 2nd respondent that her father Chinnappan - husband of A1 died on 06.09.2009 and he had Savings Bank Account in Karur Vaisya Bank at Namakkal bearing No.117715500002432 and he also had a locker facility in his name and in his wife's name and the locker number therein is 25. Immediately, after the death of the father of the defacto complainant, her mother and other sisters, without informing the bank about the death, withdrew all the amounts through ATM on various dates and transferred the same to the account of A1, wife of the deceased and later she removed nearly 120 sovereigns of jewels and Rs.2,00,000/- from the said locker. Thereby, the elder daughter made a complaint before the respondent police against her own mother and sisters. Based on the complaint, a case in Crime No.50 of 2012 was registered and later, on filing of the final report, a case in C.C.No.32 of 2014 was taken on file on the file of the learned Judicial Magistrate No.I, Namakkal.

3.Challenging the said criminal proceedings pending in C.C.No.32 of 2014, the present petition has been filed by the petitioners, who are mother and sisters of the defacto complainant/2nd respondent.

4.Mr.R.Karthikeyan, learned counsel appearing for the petitioners would submit that it is not in dispute that the relationship of the petitioners and the 2nd respondent as mother and sisters. Admittedly, the locker and the bank account stood in the name of the deceased, who is none other than the husband and father of A1 and A2 to A5 respectively and immediately after the death of the deceased, A1 being wife of the deceased, naturally became the legal heir of the deceased and the other accused A2 to A5 being children of the deceased, are also the legal heirs and they are legally entitled to succeed the estate of the deceased and therefore, even the allegation made against the petitioners by the 2nd respondent is true, there is absolutely no ingredient is made out to constitute the offence as alleged in the proceedings.

5.Mr.K.M.Subramaniam, learned counsel appearing for the 2nd respondent fairly considered the submission made by the learned counsel appearing for the petitioners. However, he would submit that the 2nd respondent, though she is also legally entitled being daughter of the deceased, but she was deprived of her share.

6.Mr.C.Iyyaparaj, learned Additional Public Prosecutor has fairly conceded the arguments put forth on behalf of the petitioners.

7.It is not in dispute that the deceased was the husband of 1st petitioner and father of the petitioners 2 to 5 and also the 2nd respondent. The relationship between the parties was not questioned by the 2nd respondent. The only allegation against the petitioners is that without intimation of death of the deceased to the bank, the petitioners have withdrawn all the money and jewels from the account and locker maintained by the deceased. As rightly submitted by learned counsel for the petitioners that the 1st petitioner being wife and the petitioners 2 to 5 being children of the deceased, they are legally entitled to succeed the estate of the deceased and therefore they are having every right to withdraw the amount and jewels. Hence, no case is made out against the petitioners to proceed. Accordingly, the proceedings pending in C.C.No.32/2014 on the file of the learned Judicial Magistrate No.1, Namakkal liable to be quashed. Accordingly, this Criminal Original Petition is allowed and the proceedings in C.C.No.32/2014 are hereby quashed. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

gbi

To

1.The Inspekor of Police,
District Crime Branch, Namakkal.

2.The Judicial Magistrate No.1, Namakkal.

3. The Chief Judicial Magistrate, Salem.

4.The Public Prosecutor,
High Court of Madras, Chennai 600 104.

+1cc to Mr.R.Karthikeyan, Advocate, S.R.No.13812

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GJ(CO)
KKV/29/07/2020