



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 20.01.2020

CORAM :

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

Crl OP(MD)No.24711 of 2015

and

MP (MD) Nos.1 & 2 of 2015

1.Prasath D.Panikkar

2.Susmitha

... Petitioners / Accused Nos.1 & 2

Vs.

1.The State, rep.by
The Inspector of Police,
Vallioor Police Station,
Radhapuram Taluk,
Tirunelveli District.
(Crime No.112 of 2013)

...1st Respondent /Complainant

2.T.Alexander

...2nd respondent /
Defacto Complainant

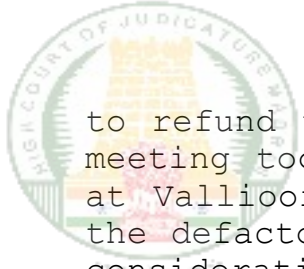
Prayer : Criminal Original Petition is filed under Section 482 of Criminal Procedure Code, to call for the entire records pertaining to the case in C.C No.139 of 2015 pending on the file of the learned Judicial Magistrate Court, Vallioor, Tirunelveli District and quash the same against the petitioners.

For Petitioners : Mr.S.R.Anbarasu
For Respondent No.1 : Mr.A.Robinson,
Government Advocate (crl.side)

For Respondent No.2 : Mr.A.Thiruvadikumar

ORDER

This criminal original petition has been filed for quashing the proceedings in C.C No.139 of 2015 on the file of the Judicial Magistrate, Vallioor, Tirunelveli District. The defacto complainant is the second respondent herein. The case of the prosecution is that there was a sale agreement between the parties herein. The petitioners are said to be owning lands in Vellamadam Village in Tiruchendur Taluk. The petitioners had agreed to sell the same to the defacto complainant for a sum of Rs.76.00 lakhs. The defacto complainant is said to have paid a sum of Rs.10.50 lakhs as advance amount. The defacto complainant would allege that the petitioners did not come forward to conclude the transaction nor they were ready



to refund the advance amount already received. In this regard, a meeting took place between the two on 06.12.2012 at about 7.30 A.M at Vallioor New bus stand. The petitioners are said to have told the defacto complainant that since he did not remit the entire sale consideration, they had sold the property to third parties. When the defacto complainant asked for return of the advance amount, the petitioners are said to have abused him and also held out life threat. In this regard, the defacto complainant lodged a complaint before the Vallioor Police Station leading to registration of Crime No.112 of 2013. After investigation, final report was filed and the same was also taken on file by the jurisdictional magistrate.

2.The learned counsel appearing for the accused/petitioners submitted that the final report was filed only for the offences under Sections 294 (b) and 506 (ii) IPC. Though the defacto complainant would claim that he was cheated, he did not file any protest petition. The petitioners' counsel submitted that only if the threat alleged to have been held out by the petitioners herein can be shown as real one, the offence under Section 506(ii) IPC will be attracted.

3.Per contra, the learned counsel appearing for the defacto complainant submitted that this is not a case in which the inherent powers of this Court are to be exercised. I considered the rival contentions and went through the materials on record. It is seen that a sum of Rs.10.50 lakhs was remitted by the defacto complainant through bank transaction to Jemini Enterprises. The petitioners are associated with the said concern. Of course, the petitioners' counsel would deny the said allegation.

4.The occurrence spot is obviously a public place within public view. The petitioners are said to have abused the defacto complainant by using filthy and obscene language. They are also said to have held out dire life threat to the defacto complainant. Since factual aspects are involved, I am not inclined to grant relief to the petitioners herein. It is for the petitioners to workout their rights before the court below. The petitioners are said to be based in Bangalore. The case is being tried at Vallioor, Tirunelveli District. The second petitioner is a woman. The first petitioner is also a senior citizen. Therefore, their personal appearance before the court below is dispensed with. However, they have to appear on those occasions when it is imperative and necessary and directed by the court below. On all other occasions, the petitioners can be represented by their counsel. If their counsel fails to appear, the benefit of the dispensing with the personal appearance of the petitioners would be vacated. I make it clear that I have not gone into the merits of the matter. All the defences available to the petitioners are left open.



5. The criminal original petition stands dismissed. Consequently, connected miscellaneous petitions are also stand dismissed.

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Sd/-

Assistant Registrar

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/ /2020

Sub Assistant Registrar(CS)

Skm

To

1. The Inspector of Police, Vallioor Police Station,
Radhapuram Taluk, Tirunelveli District.
2. The Judicial Magistrate Court, Vallioor, Tirunelveli District.
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

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and
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TR(08.06.2020) 3P 4C