



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 03.02.2020

CORAM

THE HONOURABLE MR. JUSTICE G.R. SWAMINATHAN

Crl.O.P. (MD) No.12901 of 2016

WEB COPY

1. Chandra Devi
2. Vasantha Meena
3. Uma Rani
4. Senthil Lakshmi

... Petitioners/Accused Nos.1 to 4

Vs.

1. The State of Tamil Nadu,
Rep. by its Sub Inspector of Police,
C5-Karimedu police station,
Madurai - 600 016.
(Crime No.480 of 2016)

2. Dhanalakshmi ... Respondents/Complainant/
Defacto Complainant

Prayer: Criminal Original petition is filed under Section 482 of Cr.P.C, to call for the records relating to the proceedings in Crime No.480 of 2016 on the file of the first respondent herein and to quash the same in so far as the petitioners/accused 1 to 4 are concerned.

For Petitioners	: M/s.Jessi Jeeva Priya
For R-1	: Mr.A.Robinson, Government Advocate(Crl. Side).
For R-2	: Mr.N.Vijaya Rajan

O R D E R

The petitioners are shown as accused in Crime No.480 of 2016 registered on the file of the C-5-Karimedu police station, Madurai, for the offences under Sections 420 and 506(i) of I.P.C.

2. Though the defacto complainant has been served and she has entered appearance through counsel, there is no representation on her behalf today.

3. The first petitioner and the defacto complainant are the cousins. The defacto complainant had filed O.S.No.92 of 2006 before the I Additional District Judge, Madurai, seeking relief of partition and preliminary decree was passed in her favour. During the pendency of the proceedings, it appears that the purchasers went right up to the High Court by way of second appeal which is now pending in the first appeal against the final decree.



4. The case of the defacto complainant is that during the pendency of these civil proceedings, the petitioners have let out one item of the suit property. The grievance of the defacto complainant is that when the issues are pending before the civil Court and it had already secluded in getting the preliminary decree before the trial Court, it was not open to the petitioners to let out the property as if they are the absolute owners.

5. The petitioners may have a case for grant of measne profits in the civil proceedings. But then, the act committed by the petitioners herein does not warrant criminal prosecution.

6. The offence under Section 420 of I.P.C. will be attracted only if false representation was held out by the petitioners herein to the defacto complainant. In this case, the claim of the petitioners is that they are the absolute owners of the properties and it was held out only to the tenant and not to the complainant herein.

7. In this view of the matter, I hold that the elementary ingredients of the offence under Section 420 of I.P.C. are not at all attracted and also the registration of the impugned First Information Report against the petitioners is not warranted. Hence, the impugned First Information Report stands quashed. The criminal original petition stands allowed.

Sd/-

Assistant Registrar (Crl.Side)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

pmu

To:

1. The Sub Inspector of Police,
C5-Karimedu police station,
Madurai - 600 016.
2. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to M/s.S.SUBBIAH, Advocate (SR-4530[F] dated 04/02/2020)

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03.02.2020

AP(05/06/2020) 2P 4C

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