



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 06.03.2020

CORAM:

THE HONOURABLE **DR. JUSTICE G. JAYACHANDRAN**

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CrI.O.P.(MD).No.13615 of 2016

and

CrI.M.P.(MD).Nos.6356 and 6357 of 2016

1.B.Mohan
2.Vislakhshi
3.Padmanabha Balasubramanian
4.S.Mohan

...Petitioners / Accused Nos.1 to 4

Vs.

1.The State represented by
The Inspector of Police,
Fort Police Station,
Trichy District.
(Crime No.13 of 2008)

...1st Respondent / Complainant

2.E.P.Viswananthan

...2nd Respondent / De-facto complainant

PRAYER: Criminal Original Petition filed under Section 482 of the Criminal Procedure Code, to call for the records pertaining to the proceedings in C.C.No.254 of 2011 on the file of the Judicial Magistrate No.1, Trichy and quash the same.

For Petitioners : Mr.R.Sundar

For R-1 : Mr.S.Chandra Sekar
Additional Public Prosecutor

O R D E R

This petition is filed under Section 482 of Cr.P.C., to quash the criminal proceedings in C.C.No.254 of 2011, pending on the file of the learned Judicial Magistrate No.1, Trichy.

2.The second respondent is the defacto complainant, to whom despite order of this Court to take private notice, the petitioners herein have not taken private notice and filed affidavit of service.

3.This quash petition has been filed by the petitioners herein. The petitioners 1 and 2 are husband and wife. The defacto complainant is the brother of the petitioners 2 and 3. Regarding the property of the defacto complainant's mother, a complaint has been filed by the petitioners stating that the petitioners 2 and 3



have fabricated the documents and accounts and the property was transferred in the name of the second petitioner/defacto complainant. In this regard, initially the petitioners herein filed discharge application before the trial Court and the same was dismissed by the learned Judicial Magistrate No.1, Trichy. As against which, the petitioners filed revision petition in Crl.R.C.No.236 of 2015 before this Court. After considering the averments, the revision petition was disposed of and the plea raised by the petitioners/accused regarding thumb impression in the sale deed alleged to have been not executed by one Ramalakshmi Ammal, this Court has made certain observations. After disposal of the revision petition instead of facing the trial, the petitioner come out with this application under 482 of Cr.P.C., to quash the criminal proceedings on the ground that the final report was filed without proper investigation and without verifying the authenticity of the thumb impression found in the disputed sale deed, and compared with the admit thumb impression. It is further contented that due to old age and suffering of Ramalakshmi Ammal from Cancer, there is possibility of variations in the signature. Therefore, the conclusion of the investigating officer that the signature found in the sale deed is forgery unacceptable. Further, it is contended that the dispute is purely civil in nature and the penal provisions under Sections 419, 420, 465, 468 and 506(i) of IPC r/w Section 34 of IPC does not attract in this case. The respondent police based on the complaint given by the second respondent herein viz., E.P.Viswanathan has registered a case in Crime No.13 of 2008 on 03.01.2008. After several interference in the investigation by the petitioner herein, the final report has been filed before the learned Judicial Magistrate No.1, Trichy and the same has been taken on file in C.C.No.254 of 2011. While so, the omission to compare the thumb impression in the documents, cannot be a ground to quash the prosecution. When there is specific allegations of forgery and cheating spoken by the de-facto complainant and witnesses given statements under 161 Cr.P.C, the defence taken by the petitioners herein are matter for trial and the content of the complaint and the final report provides prima facie material for constituting the cognizable offence. By virtue of this criminal original petition pending for the past four years, the court below is unable to proceed with the trial.

4.The learned Additional Public Prosecutor appearing for the respondent Police would submit that now the case is posted to 16.03.2020 for examination of witnesses. He further submitted that the summon has not been ordered, due to pendency of this case.

5.This Court restrain itself from discussing further about the merits of the case, since it may prejudice the trial Court and affect the petitioner herein in the course of the trial

6.In the light of the above facts and circumstances, this petition stands dismissed with a direction to the



learned Judicial Magistrate No.1, Trichy, to expedite the trial in C.C.No.254 of 2011 and complete the same within a period of six months from the date of receipt of copy of this order. Consequently, the connected miscellaneous petitions are closed.

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Sd/-

Assistant Registrar (Crl.Side)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

To

1.The Judicial Magistrate No.1,
Trichy.

2.The Inspector of Police,
Fort Police Station,
Trichy District.

3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

+1 CC to M/s.R.SUNDAR, Advocate (SR-10588[F] dated 09/03/2020)

Crl.O.P.(MD).No.13615 of 2016

and

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vsg

SDS (06.05.2020) 3P-5C