



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 25.02.2020

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

Crl.O.P.(MD)No.15598 of 2016 and

CRL.M.P.(MD)No.7414 of 2016

WEB COPY

K.A.K.Vivek

... Petitioner/Accused No.2

Vs.

1. The State rep. by,
The Inspector of Police,
District Crime Branch,
Ramanathapuram.
(Crime No.60 of 2015)

... 1st Respondent/Complainant

2. Selvaraj

... 2nd Respondent/Defacto
Complainant

Prayer: Criminal Original petition is filed under Section 482 of Cr.P.C, to call for the records relating to FIR in Crime No.60 of 2015 on the file of the first respondent police and quash the same as illegal.

For Petitioner	: Mr.R.Gandhi
For R-1	: Mr.A.Robinson, Government Advocate(Crl. Side).
For R-2	: M/s.J.Madhu

O R D E R

The petitioner is figuring as accused No.2 in Crime No.60 of 2015 on the file of the District Crime Branch, Ramanathapuram, for the offences under Sections 406, 420 and 506(i) of I.P.C.

2. Heard the learned counsel on either side.

3. The prosecution case is that the accused had received a sum of Rs.3 Lakhs on 12.08.2004 and agreed to sell the property in question for a total sum of Rs.8,92,250/-. The case of the defacto complainant is that contrary to the said agreement, the accused did not conclude the transaction, nor did they return the advance amount of Rs.3 Lakhs.

4. In this case, the petitioner's counsel initially contended that the sale agreement projected by the defacto complainant itself is a forged one. If that be the argument of the petitioner, I would not be in a position to go into the said aspect. Even assuming that the case projected by the defacto complainant is true, the nonperformance of the contractual



obligations under the sale agreement cannot constitute a criminal offence. More than anything else, the impugned First Information Report has been lodged and registered after a gap of almost eleven years.

5. The delay is unacceptable. If the defacto complainant had any genuine grievance, he ought to have filed a civil suit for return of the amount or for specific performance within three years. He has not done so. The case is eminently of civil nature. The defacto complainant has needlessly given a criminal profile to the same.

6. In this view of the matter, I am of the view that the very registration of the impugned First Information Report is an abuse of legal process and the same stands quashed.

7. The criminal original petition stands allowed. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (RECORD)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

PMU

To:

1.The Inspector of Police,
District Crime Branch,
Ramanathapuram.

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

+1 CC to MR.R.GANDHI, Advocate (SR-8583[F] dated 26/02/2020)

Crl.O.P.(MD)No.15598 of 2016
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