



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 27.02.2020

CORAM

WEB COPY

THE HONOURABLE MR. JUSTICE G.R. SWAMINATHAN

Cr1.O.P. (MD) No.16413 Of 2016 and
CRL.M.P. (MD) Nos.8030 & 8031 of 2016

1. Sampathkumar
2. K.Ramakrishnan

... Petitioners/A3 & A4

Vs.

Nachi

... Respondent/Complainant

Prayer: Criminal Original petition is filed under Section 482 of Cr.P.C, to call for the records in C.C.No.566 of 2008 on the file of the Judicial Magistrate No.2, Madurai and quash the same in so far as the petitioners are concerned.

For Petitioner : Mr.K.P.S.Palanivel Rajan
For Respondent : No Appearance.

O R D E R

The petitioners are figuring as accused Nos.3 and 4 in C.C.No.566 of 2008 on the file of the Judicial Magistrate No.2, Madurai, for the offence under Section 420 of I.P.C.

2. It is a private complaint instituted by the respondent herein.

3. Though the respondent has been served and she entered appearance through the counsel, there is no representation on her behalf.

4. I carefully went through the contents of the impugned private complaint.

5. The case of the respondent is that the property in question measuring about 56 cents was assigned to her father under the Bhoodan scheme and that she had been cultivating in the said land. She would allege that the accused kidnapped her minor grand son and compelled her to affix her signatures in certain blank documents. She would also allege that without paying any consideration to her, she was driven out. The petitioner filed a petition under Section 200 of I.P.C. before the Judicial Magistrate No.II, Madurai. Vide order dated 05.02.2008, the learned Judicial Magistrate passed the following order:-



"Records are perused. Already the petition filed by petitioner was forwarded in D.No.889/07 dated 10.05.2007, to Karuppayurani police station. The Inspector of Police, Karuppayurani police station filed a report that no overtact is made out. The Cr.M.P.2803/07 is closed on 28.12.2007. Petitioner has a right to file a private complaint. Hence, this petition is closed."

6. Therefore, the impugned private complaint was filed and cognizance of the offence under Section 420 of I.P.C. alone was taken and summons were issued to the accused in C.C.No.566 of 2008.

7. As rightly pointed out by the learned counsel appearing for the petitioners, the offence under Section 420 of I.P.C. will be made out only, if it is specifically alleged that the accused held out a false promise with dishonest intention at the very inception and that the complainant acted on the same and altered her position and suffered wrongful loss. Of course the result would be same, if the accused made a wrongful gain. In this case, even according to the complainant, the accused had threatened and coerced the complainant to affix her signatures in certain blank documents. That would not constitute the offence under Section 420 of I.P.C. In this case, the elementary ingredients of the offence are absent.

8. In this view of the matter, the impugned proceedings stand quashed. The criminal original petition stands allowed. The benefit of this order will enure in favour of the non-petitioning accused also. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar ()

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

pmu

To:

1.The Judicial Magistrate No.2, Madurai.

+1 CC to M/s.K.P.S.PALANIVELRAJAN, Advocate (SR-9297[F] dated 28/02/2020)

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