



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT  
DATED:10.12.2020  
CORAM  
THE HONOURABLE Mr.JUSTICE **G.K.ILANTHIRAIYAN**

Crl.O.P.(MD).No.22390 of 2016

and

Crl.M.P.(MD).Nos.11667 and 11668 of 2016

WEB COPY

Nallasivan

... Petitioner/A-10

Vs

K.Mohamed Ali

... Respondent/Complainant

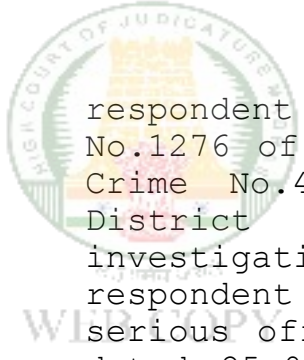
**PRAYER:** Criminal Original Petition filed under Section 482 of Cr.P.C, praying to call for the records pertaining to the complaint in C.C.No.292 of 2015 on the file of the District Munsif cum Judicial Magistrate, Karaikudi and quash the same.

For Petitioner : Mr.M.Solaisamy  
For Respondent : Mr.M.P.Senthil

**ORDER**

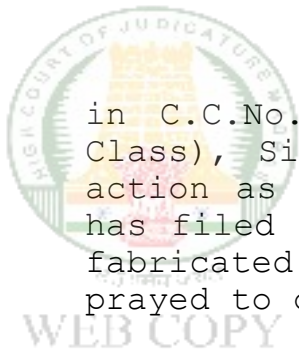
This criminal original petition has been filed to quash the complaint in C.C.No.292 of 2015 on the file of the learned District Munsif cum Judicial Magistrate, Karaikudi, as against the petitioner.

2.The learned Counsel appearing for the petitioner submitted that totally there are 12 accused in this case in which, the petitioner has been arrayed as A10. The respondent has purchased the property comprised in Survey No.1/1 to an extent of 6.86 acres situated at Manakkudi, Sakkai Village, Karaikudi Taluk, Sivagangai District by registered sale deed dated 15.06.2007 from one Abdul Aziz, S/O.Abdul Hasan. Thereafter, he came to understand that for the very same property the said Abdul Aziz has executed power of attorney in favour of his son on 11.06.2004. On the strength of the power of attorney, the said property was sold out to one Ganesa Pandiyan and Sahul Hameed through a registered sale deed in Doc. No.1041 of 2006 dated 12.04.2006. When it was questioned by the respondent, all the accused persons threatened him with dire consequences. In this regard the respondent lodged a complaint and the same was registered in Crime No.465 of 2010 based on the direction given by the Judicial Magistrate Court, Karaikudi under Section 156(3) of Cr.P.C., for the offence under Sections 408, 419, 465, 468, 147, 294(b) and 506(i) of IPC. After completion of investigation, the Inspector of Police, Karaikudi (North) Police Station closed the case as Mistake of Fact. Against which, the



respondent has filed petition before this Court in Crl.O.P.(MD). No.1276 of 2012 and as directed by this Court, FIR registered in Crime No.465 of 2010 transferred to the Inspector of Police, District Crime Branch, Sivagangai District for further investigation. In fact, on investigation, they found that the respondent herein fabricated a false document and committed very serious offence. The respondent has fabricated the sale agreement dated 25.04.2006 as if the said Abdul Aziz executed the same in respect of the subject property and the respondent is the none other than the brother-in-law of Abdul Aziz and the sale deed was executed in his favour on 15.06.2007, after the sale deed executed by the son of the said Abdul Aziz. Thereafter, the petitioner herein found that the respondent committed very serious offence and lodged a complaint before the Superintendent of Police, Sivagangai District. The said complaint was forwarded to the Inspector of Police, District Crime Branch, Sivagangai District and the same was registered in Crime No.28 of 2008 for the offence under Sections 120 (b), 468 and 419 of IPC, in which, the respondent has been arrayed as second accused and other officials. After completing the investigation, final report has been filed in C.C.No.78 of 2013 before the learned Judicial Magistrate (II Class), Sivagangai and it is pending for trial. Thereafter, the respondent has filed impugned complaint alleging that the petitioner and other accused persons have also conspired together and fabricated documents in favour of the purchaser of the subject property. Therefore, the present complaint has been filed only to escape from the clutches of law. Hence, he prayed to quash the proceedings.

3.The learned counsel appearing for the respondent submitted that the respondent has purchased the property comprised in Survey No.1/1 to an extent of 6.86 acres situated at Manakkudi, Sakkai Village, Karaikudi Taluk, Sivagangai District by registered sale deed dated 15.06.2007 from one Abdul Aziz, S/O.Abdul Hasan. Thereafter, one Mohamed Mujamil, S/O Abdul Aziz has sold the property to one Ganesa Pandian and M.S.Sahul Hameed on 12.04.2006, as if he obtained a power of attorney from his father Abdul Aziz. When it was questioned by the respondent, on 07.11.2007 all the accused persons have threatened the respondent with dire consequence and tried to attack him. Thereafter, on 14.11.2007, he lodged a complaint and the same was registered in Crime No.465 of 2010 for the offence under Sections 408, 419, 465, 468, 147, 294(b) and 506 (i) of IPC, based on the direction of lower Court under Section 156 (3) of Cr.P.C. After completion of investigation, the Inspector of Police, Karaikudi (North) Police Station closed the case as Mistake of Fact. Against which, the respondent has filed petition before this Court in Crl.O.P.(MD).No.1276 of 2012 and as directed by this Court, FIR has been registered in Crime No.465 of 2010 and the same has been transferred to the Inspector of Police, District Crime Branch, Sivagangai District for further investigation. Thereafter, the case was registered in Crime No.28 of 2008 for the offence under Sections 120 (b), 468 and 419 of IPC and final report has been filed



in C.C.No.78 of 2013 before the learned Judicial Magistrate (II Class), Sivagangai and it is pending for trial. Since there is no action as against the petitioner in the above case, the respondent has filed the present private complaint. Hence, the petitioner has fabricated the documents and sold the subject property and hence, he prayed to dismissal of this petition.

4.Heard the learned counsel appearing for the petitioner and the learned counsel appearing for the respondent.

5.Insofar as the petitioner is concerned, who was act as enquiry officer and working as District Registrar and conducted enquiry found that the respondent fabricated the sale agreement and sale deed in his favour as if executed by one Abdul Aziz. In fact on the complaint lodged before the Inspector of Police, Karaikudi, the petitioner is not an accused and the same was closed as Mistake of Fact. Again the respondent lodged a private complaint implicating the petitioner as an accused.

6.On perusal of the impugned complaint as against the petitioner, there is absolutely no evidence to attract any of the offence as alleged by the respondent herein. The respondent has made allegation as against the petitioner is that he along with other accused have conspired together and fabricated documents. On perusal of the records, it is seen that the sale deed executed by the Abdul Aziz. Since the petitioner is the District Registrar, the petitioner has rightly found that the respondent committed very serious offence. Therefore, the present private complaint has been filed only to escape from the clutches of law. Therefore, the proceeding as against the petitioner is nothing but clear abuse of process of law and it cannot be sustained as against the petitioner.

7.Accordingly, this criminal original petition is allowed and the private complaint in C.C.No.292 of 2015 on the file of the learned District Munsif cum Judicial Magistrate, Karaikudi is hereby quashed in respect of petitioner alone. Consequently, the connected criminal miscellaneous petitions are closed.

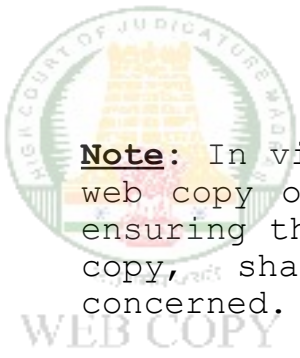
Sd/-

Assistant Registrar (CS-II)

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/ /2021

Sub Assistant Registrar(CS)



**Note:** In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To:

The District Munsif  
cum Judicial Magistrate,  
Karaikudi.

+1 CC to Mr.M.P.Senthil, Advocate ( SR-25204[F] dated 11/12/2020 )

**Crl.O.P. (MD) .No.22390 of 2016**  
**and**  
**Crl.M.P. (MD) .Nos.11667 and 11668 of 2016**

**10.12.2020**

(SSS)  
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