



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 21.01.2020

CORAM :

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

Crl.O.P (MD)No.8376 of 2016

and

Crl.M.P. (MD)No.4083 of 2016

WEB COPY

- 1.Velammal
- 2.Backialakshmi
- 3.Ravichandran
- 4.Ponkalaiyarasan
- 5.Poongothai

... Petitioners/Accused 1 to 5
Vs.

- 1.State rep. By
The Inspector of Police,
Subramaniyapuram Crime Police Station,
Madurai City. ...Respondent/Complainant

- 2.P.M.Sundar @ Sundaramoorthy
... Respondent/Defacto Complainant

Prayer: This Criminal Original Petition is filed under Section 482 of Cr.P.C., to call for the records from the 1st respondent in Crime No.1192 of 2015 and quash the same.

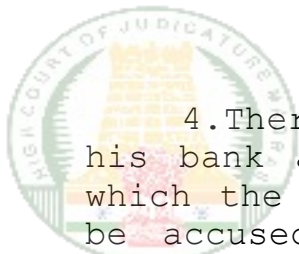
For Petitioners : Mr.K.P.Narayanakumar
For Respondents : Mr.A.Robinson
Govt. Advocate (Crl. Side) for R1
Mr.K.S.Durai Pandian for R2

O R D E R

This criminal original petition has been filed to quash the FIR in Crime No.1192 of 2015, registered on the file of the first respondent for the offences under Sections 420, 323 and 506(i) of I.P.C.

2.The second respondent herein is the defacto complainant. He is none other than the son of the first petitioner herein. The second petitioner is the sister of the defacto complainant. The third petitioner is the husband of the second petitioner. The fourth petitioner is their son. The fifth petitioner is the wife of the deceased brother of the defacto complainant.

3.The father of the defacto complainant and the husband of the first petitioner was one Muthaiah. He passed away on 26.02.2015. He had left a sum of Rs.2,00,000/- in Tirunagar Branch of Bank of India. The allegation of the defacto complainant is that the ATM of late.Muthaiah was misused and a sum of Rs.81,400/- was withdrawn from his bank account. That led to registration of the



4. There can be no doubt that following the demise of Muthaiah, his bank account could not have been operated in the manner in which the petitioners have done. But then the petitioners cannot be accused of having any malafide or malicious intention. The petitioners' counsel states that the said sum of Rs.2,00,000/- was set apart by late. Muthaiah towards his funeral expenses and that of the first petitioner. If the petitioners had any malicious intention to defraud the defacto complainant they would have obviously withdrawn the entire amount of Rs.2,00,000/-. They have not done so. They have withdrawn only a sum of Rs.81,400/-. This obviously was towards the expenses of funeral and the related ceremonies. Muthaiah died leaving behind his wife Velammal, daughter Backiyalakshmi and Poongothai, the wife of his predeceased son, and P.M.Sundar @ Sundaramoorthy, the defacto complainant herein. Thus there are four legal heirs. It appears that a Will had been executed by late. Muthaiah and that the second respondent was disinherited. Even if I ignore the existence of the said Will that would still leave behind four legal heirs. The share of the defacto complainant would come to Rs.50,000/-. The said amount is very much lying in the said bank account. Therefore, the legal rights of the second respondent has not at all been infringed. It is further seen that the second respondent had already filed a partition suit in O.S.No.14 of 2016 before the Principal District Court, Madurai.

5. Though the acts committed by the petitioners herein technically and legally amount to an illegality, still no one has been affected as a result.

6. The first petitioner is after all the aged widow of the deceased Muthaiah. She had withdrawn the amount in question for meeting out the funeral expenses. For doing this, the estranged son has initiated the criminal prosecution. The second respondent has chosen to go to the police targeting his own mother, sister and wife of his deceased brother. Continuance of such a prosecution will definitely not serve the ends of justice and therefore to secure the ends of justice, the impugned FIR deserves to be quashed. It is accordingly quashed and the criminal original petition is allowed. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CO)

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Sub Assistant Registrar (CS)



To
The Inspector of Police,
Subramaniyapuram Crime Police Station,
Madurai City.

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

+1 CC to MR.K.P.NARAYANAKUMAR, Advocate (SR-2285[F] dated
22/01/2020)

Crl.O.P(MD)No.8376 of 2016
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