



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 06.03.2020

CORAM:

THE HONOURABLE MR. JUSTICE G.R. SWAMINATHAN

Crl.O.P (MD)No.11604 of 2018

and

Crl.M.P. (MD)Nos.5264 and 5265 of 2018

1.Jeyavelu

2.Kannan

3.Ekambaram

4.Vinotha

5.Dinesh

6.Ayirasu

7.V.P.Kalairajan

8.Krishna Kumar 2 Krishnan

... Petitioners/Accused 1to8

Vs

1.Jeyasankar

... Respondent/Complainant

PRAYER: Petition filed under Section 482 Code of Criminal Procedure, to call for the records pertaining to the C.C.No.142 of 2017 on the file learned District Munsif cum Judicial Magistrate, Orathanadu, Thanjavur District and quash the same.

For Petitioners

: Mr.Veera Kathiravan

Senior Counsel

for Mr.P.Mahendra Pandi

ORDER

1.This Criminal Original Petition has been filed to quash the impugned proceedings in C.C.No.142 of 2017 on the file of the Judicial Magistrate, Orathanadu, Thanjavur District.



2.The petitioners are figuring as accused in the said case. The respondent herein is the complainant. On the strength of the complaint filed by the respondent, the Court below has taken cognizance of the offences under Section 365 and 506(ii) of IPC.

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3.Though the respondent has been served and his name is printed in the cause list, there is no appearance or representation on his behalf.

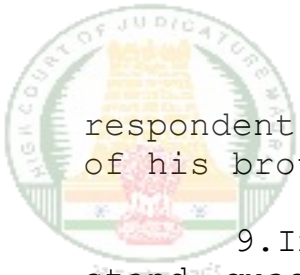
4.The learned counsel appearing for the petitioners reiterated the contentions set out in the memorandum of grounds.

5.I carefully went through the materials on record.

6.It is seen that the property in question is comprised in Survey No.52/5 in Keelamangalam Village and measures an extent of 40 cents. The property originally belonged to first petitioner Jeyavelu. Jeyavelu sold the same in favour of the fourth petitioner Vinotha. Vinotha had sold the property to one Jeyachandran vide sale deed dated 11.07.2016.

7.According to the petitioner's counsel, Jeyachandran later resold the property to Vinotha on 20.06.2017. It was also registered as document No.547/2017 on the file of the SRO, Pappanadu. In the impugned complaint, the allegation is to the effect that the petitioners herein had abducted the said Jeyachandran and coerced him to execute the said document. Jeyachandran had filed O.S.No.189 of 2018 on the file of the Sub Court, Pattukkottai for getting a declaration that the said document is nullified. The said suit is still pending. In the meanwhile, the impugned private complaint has been filed.

8.Interestingly, it was the brother of the said Jeyachandran namely Jeyasankar, who has filed the impugned private complaint. When Jeyachandran had himself filed a civil suit for nullifying the document, nothing stopped the said Jeyachandan from moving the local police or filing a private complaint himself. It is not as if, Jeyachandran is not in a position to knock the doors of the Court. When the victim is very much available and when he had already filed a civil suit, the question of another person filing a private complaint on the same cause of action does not arise. Even though the general principle is that anyone can set the criminal law in motion, when it comes to private complaint, one has to apply a different yardstick. It is the aggrieved person who has to necessarily file the complaint. Of-course, if the affected party is not in a position to approach the Court, a friend can lodge a complaint. In this case, the



respondent herein has not given any explanation as to why instead of his brother, he has chosen to come.

9.In this view of the matter, the impugned proceedings stand quashed. The criminal original petition stands allowed. Consequently, connected miscellaneous petitions are also closed.

Sd/-

Assistant Registrar(CS)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

To
The District Munsif cum Judicial Magistrate,
Orathanadu,
Thanjavur District.

+1 CC to M/s.P.MAHENDRAPANDI, Advocate (SR-10506[F] dated 06/03/2020)

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