**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

Orders Reserved on	14.07.2020
Orders Pronounced on	27.07.2020

WEB COPY

CORAM:**THE HONOURABLE Mr.JUSTICE R.PONGIAPPAN**

CRL OP (MD) No.15180 of 2018
and
CRL MP (MD) No.6705 of 2018

Ramapriya ... Petitioner / Accused No.2

Vs.

1.The State Rep by
The Inspector of Police,
Srivilliputhur Town Police Station,
Virudhunagar District Respondent / Complainant
(Crime No.422 of 2015)

2.Joseph Raj ... Respondent / Defacto
Complainant

PRAYER: Petition filed under Section 482 of Criminal Procedure Code, to call for the records in C.C.No.80 of 2017, pending on the file of the learned Judicial Magistrate No.2, Srivilliputhur, Virudhunagar District and quash the same.

For Petitioners : Mr.B.Jeyakumar

For Respondent-1 : Mr.S.Chandrasekar
Additional Public Prosecutor

For Respondent-2 : Mr.M.Jothi Basu

O R D E R

This Criminal Original Petition has been filed to call for the records in C.C.No.80 of 2017, on the file of the learned Judicial Magistrate No.2, Srivilliputhur, Virudhunagar District and quash the same, as against this petitioner.

2. The case of the petitioner is that she was arrayed as Accused No.2 in C.C.No.80 of 2017 pending on the file of the
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learned Judicial Magistrate No.2, Srivilliputhur, Virudhunagar District. Previously, A1 was known to the defacto complainant and therefore, he proposed to sell Maruthi Shift Car, bearing Registration No.TN-67-AL-4308 and the same was agreed by the defacto complainant, for a sum of Rs.4,80,000/-.

3. As the said car was purchased from the loan obtained from Sundaram Finance, A1 requested the defacto complainant to settle the pending due with the Finance Company for getting No Objection Certificate. Therefore, on believing his representation, the defacto complainant handed over a sum of Rs.4,00,000/- to A1. Thereafter, at the instance of the defacto complainant, A1 gave a sum of Rs.3,83,300/- to the said Finance Company and gave a letter to issue No Objection Certificate to the defacto complainant. On receipt of the same, the Finance Company had issued a clearance certificate to A1.

4. Later, A1 has not come forward to transfer the car in the name of the defacto complainant. However, A1 had given the cheque as security to the defacto complainant, which has also returned from the Bank. Subsequently, the defacto complainant came to know that instead of selling the car to him, A1 sold the car to the petitioner Rama Priya, who is the wife of A1 and thereby, A1 cheated the defacto complainant. Thereafter, at the instance of the defacto complainant, the case has been registered against the petitioner and against A1.

5. It is the case of the petitioner that the defacto complainant has suppressed the real fact and tried to tune the civil dispute as criminal one by roping the petitioner in the above said case with false allegations that she is the wife of A1. Actually, the petitioner is no way connected to the above said occurrence. The petitioner is neither wife nor relative of A1. She is hailing from reputed family and she is having separate family and living with her son and husband viz., Praveen Kumar. She is a *bonafide* purchaser and she was not aware of the understanding made already between A1 and the defacto complainant. The defacto complainant has made vague and bald allegations against the petitioner that she was residing with A1 as she was the wife of A1 and only in pursuance of the conspiracy made between A1 and the petitioner, the vehicle was transferred in the name of the petitioner.

6. It is the further case of the petitioner that the defacto complainant is the money lender and A1 borrowed a sum of Rs.2,00,000/- from the defacto complainant, for his family expenses and used to pay interest for every month. He has also given a cheque to the defacto complainant as security. Though the loan amount was repaid by A1 along with interest for every month, the defacto complainant started to demand exorbitant interest and refused to return the blank cheque. In the said circumstances, the defacto complainant had seized A1's car from the possession of the



petitioner assuming that A1 was the owner of the vehicle and later he came to know that the car was not in the name of A1 and it was transferred to A2 / Petitioner. After knowing the same, the defacto complainant handed over the car to A2 and gave a false complaint before the 1st respondent. The averments made in the statement recorded from the witnesses do not disclose the fact that the offences cited in the charge sheet is not attracted. The case has been instituted by the Police maliciously with an ulterior motive for wrecking vengeance on the petitioner.

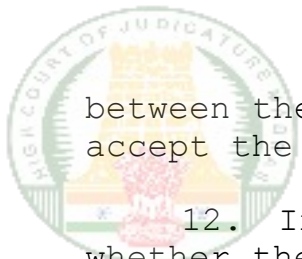
7. The learned counsel appearing for the petitioner would submit that after made a false allegation in respect to the relationship between A1 and A2, the case has been foisted against the petitioner with an ulterior motive. At any point of time, the petitioner was not the wife of A1 and also she is not related to A1 in any manner.

8. In this regard, the learned counsel appearing on behalf of the 2nd respondent would submit that now the grounds raised by the petitioner is a matter of evidence and it cannot be said that the 2nd respondent had given a false complaint against the petitioner.

9. In the said circumstances, in order to substantiate the claim made by the petitioner, she has produced the copy of the Family Ration Card; copy of the Birth Certificate of the petitioner's daughter and son; copy of the Transfer Certificate of the petitioner's daughter and son; Copy of the Voter Identify Card of the petitioner; copy of the Bank Passbook for Public Provident Fund scheme of the petitioner's husband; copy of the Income Tax Pan service of the petitioner, as Document Nos.1 to 7.

10. Those documents are clear and reveal the fact that the petitioner is not the wife of the first accused viz. Karuppasamy. The said document discloses the fact that one Pravin Kumar is the husband of the petitioner. However, in the statement recorded from the 2nd respondent, he has clearly averred that the petitioner is the wife of A1 / Karuppasamy. Further, there was an averment that in the quarrel happened between the defacto complainant and the first accused, the petitioner has also participated and made abusive words. The other witnesses examined by the Police are also has stated that both the petitioner and the first accused Karuppasamy joined together and cheated the defacto complainant.

11. In the said circumstances, it is necessary to see the copy of the charge sheet filed by the respondent police, in which it was mentioned by the Police that as the petitioner herein was lived together with the first accused. Accordingly, their contention is that the petitioner is lived together with the first accused. In otherwise, the relationship between the petitioner and the first accused has not been stated in the charge sheet. Therefore, the documents relied on by the petitioner to prove the relationship



between the petitioner and the first accused is not at all useful to accept the case of the petitioner.

12. In the said circumstances, the issue to be decided is whether the petitioner purchased the car from the first accused with bonafide intention or malaifde intention. In fact, the intention of the petitioner has to be identified only during the time of trial and not at this time. Therefore, without knowing the intention of the petitioner it cannot be said that the petitioner is not having any involvement in the alleged occurrence. The intention of the petitioner has to be decided only at the time of trial and therefore, the petition filed by the petitioner is liable to be dismissed.

13. In the result, this Criminal Original Petition is dismissed. Consequently, the connected miscellaneous petition is also dismissed.

Sd/-

Assistant Registrar ()

// True Copy //

/ /2020

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

- 1.The Judicial Magistrate No.2,
Srivilliputhur,
Virudhunagar District.
- 2.The Inspector of Police,
Srivilliputhur Town Police Station,
Virudhunagar District
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

Order made in
CRL OP(MD)No.15180 of 2018
27.07.2020

MPK

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