



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 16.12.2020

CORAM

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

CRL.O.P (MD) Nos.3688 & 8129 of 2017

and

Crl.M.P. (MD) Nos.2731 & 2732, 5504, 5505 of 2017 & 9389 of 2018

CRL.O.P (MD) No.3688 of 2017

R.Sivakumar Singh

... Petitioner/Accused No.4

Vs

1.The Inspector of Police,
Manaparai Police Station,
Thuvarankurichi to Manaparai Road,
Trichy District
(C.C.No. 155 of 2016)

... Respondent

2.Ramaraj Singh

... Respondent/Defacto
Complainant

CRL.O.P (MD) No.8129 of 2017

1. D.Rajini Bai

2. D.Yogesh

3. S.Anitha Bai

... Petitioners/Accused No.1 to 3
Vs

1.The Inspector of Police,
Manaparai Police Station,
Thuvarankurichi to Manaparai Road,
Trichy District. (C.C.No. 155 of 2016)

...Respondent No.1 /Complainant

2.Ramaraj Singh

... Respondent 2/Defacto Complainant

COMMON PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C, to call for the records in C.C.No. 155 of 2016 pending on the file of the Learned Judicial Magistrate Manaparai, Trichy District and quash the same as against the petitioners.
(In both petitions)

For Petitioners : Mr.V.S.Senthil Kumar

For Respondents : Mr.K.Suyambulinga Bharathi
Government Advocate (crl.side) for R1

: Mr.J.Anand Kumar for R2



COMMON ORDER

These petitions have been filed to quash the proceedings in C.C.No. 155 of 2016 pending on the file of the Judicial Magistrate Manapparai, Trichy District.

WEB COPY

2. Heard the learned counsel for the petitioners, the learned Government Advocate for the first respondent and the learned counsel for the second respondent.

3. On the complaint lodged by the second respondent, the first respondent registered a case in Crime No.406 of 2013 for the offence under Section 420 of I.P.C as against all the petitioners. After completion of investigation, the first respondent filed the final report and the same has been taken cognizance, for the offence under Section 420 of I.P.C. in C.C.No.155 of 2016 on the file of the Judicial Magistrate, Manapparai.

4. The crux of the complaint is that the second accused approached the defacto complainant to sell his joint family properties, for which, the defacto complainant agreed to purchase the same for the total consideration of Rs.50,00,000/- (Rupees Fifty Lakhs only). Accordingly, the defacto complainant has paid the entire sale consideration of Rs.50,00,000/- (Rupees Fifty Lakhs only) and purchased stamp papers and also prepared sale deed. Accused 1 to 3 have come to the registration office and also signed the documents. Thereafter, they refused to register the same in favour of the defacto complainant and demanded further sum of Rs.5,00,000/- (Rupees Five Lakhs only) as sale consideration. In fact the defacto complainant also agreed to pay further sum of Rs.5,00,000/- (Rupees Five Lakhs only). On next day, Accused 1 to 3 did not turn up for registration of sale deed and also refused to receive the balance amount. Hence, the complaint.

5. Admittedly, the Accused Nos.1 to 3 are the legal heirs of one T.R. Dharam Singh. The said Dharam Singh and the father of the defacto complainant are brothers. The learned counsel for the defacto complainant submitted that when his father was alive, the petitioners' father was in financial crisis.. and as such his father sold out his share derived from their father by oral partition and said the subject property belongs to the petitioners' father. The father of the petitioners promised that the subject property will be transferred in favour of the defacto complainant. After having been purchased the stamp papers and also prepared sale deed, the petitioners refused to execute the sale deed in his favour.

6. On perusal of documents revealed that according to the defacto complainant on 17.04.2013, a sum of Rs.20,00,000/- (Rupees Twenty Lakhs only) was paid, on 15.05.2013 another sum of Rs.

Rs.20,00,000/- (Rupees Twenty Lakhs only) was paid and on 20.08.2013, last and final payment of Rs.10,00,000/- (Rupees Ten Lakhs only) was paid in the registrar office. Even assuming that those amounts were paid on the said dates, the defacto complainant failed to produce any piece of evidence to prove the said allegation. Except the sale deed prepared by the second respondent, no other evidence to show that the petitioners intended to sell their property in favour of the second respondent and also no evidence to show that the document was presented for registration.

7. The alleged sale deed signed by the parties on 20.08.2013, whereas, the complaint lodged by the second respondent only on 05.11.2013. There is no explanation for the delay in lodgement of complaint. Even according to the defacto complainant after receipt of the entire sale consideration, the petitioners refused to register the sale deed in his favour. Therefore, the entire transaction is civil in nature and the second respondent is trying to give the criminal colour by using arm twisting method, by lodging the belated complaint. Therefore, no offence under Section 420 of I.P.C. is made out as against the petitioners. It is also stated that even till today the second respondent / defacto complainant did not choose to file any suit for specific performance as against the petitioners herein. There was money transaction between the petitioners' father as well as the second respondent's/ defacto complainant's father, which were resulted in legal notice, dated 28.09.2013 issued by the Accused Nos. 1 to 3 to the defacto complainant. The notice revealed that on 26.08.2013, the defacto complainant fraudulently procured the signature from Accused Nos.1 to 3 by exercising coercion and undue influence and forcibly took to A1 to A3 to registration office and compel them to sign the documents, which had already been prepared by the second respondent herein. Therefore, Accused Nos.1 to 3 called upon the second respondent to handover all the signed documents, which were stamp papers, which were forcibly procured by the second respondent. The second respondent issued reply notice on 07.10.2013 and the same reads as follows:

" My clients father Mohan singh, Rajendrasingh and your clients husband and father Dharamsingh are brothers. Due to heavy burden of indebttness of Late Dharam singh his brothers, my clients father on the request Late Dharam singh settled his borrowers by selling portion of their properties and have settled the same from their sale of property since Dharam singhs property has been under litigation by the specific performance of suit at Trichy Sub Court O.S.No.976/2001. Only with the intention to relieve Dharam from the clutches of borrows who assured to reimburse the settled loan amount from his property under litigation and also from the property remaining with him. Dharam singh died



leaving behind him your clients as his legal heirs. One of your client yogesh singh clients who is managing the grocery shop has approached voluntarily my clients and offered my his property in view of return of part payment of loan amount settled by their father and then only my client gave consent the sale negotiation. My clients have accepted your clients voluntary offer and have procured the necessary stamp papers to the tune of Rs.10,00,000/- and your clients have affixed their signatures in the said deed voluntarily without any coercion."

8. Therefore, no sale consideration was paid by the second respondent as alleged in the complaint. Even according to the defacto complainant, the amount settled by his father in favour of the petitioners' father and the petitioners agreed to transfer the property in favour of the defacto complainant. Therefore, with the false allegation, the present complaint has been lodged by the second respondent.

9. Even assuming that the allegations are true to attract the offence under Section 420 IPC, there is no material to attract cognizance against the petitioners herein. As such, the present proceedings is nothing, but clear abuse of process of law and it cannot be sustained as against the petitioners.

10. In view of the above, these Criminal Original Petitions are allowed and the proceedings in C.C.No.155 of 2016 on the file of the Judicial Magistrate, Manapparai, is hereby quashed. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

Ls

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,
Manaparai, Trichy District

2.The Inspector of Police,
Manaparai Police Station,
Thuvarankurichi to Manaparai Road,
Trichy District

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

Order made in
CRL.O.P (MD) Nos.3688 & 8129 of 2017
16.12.2020

(SS)CO

AP(18/01/2021) 5P 4C