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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.11.2021

CORAM:

THE HON'BLE MR.JUSTICE V.BHARATHIDASAN

CRL.O.P.NOS.18717, 20795 & 23104 OF 2015

AND

M.P.NOS.1 & 2, 1 & 2 AND 1 & 2 OF 2015

N.Ramachandran,
S/o.Nediyan

... Petitioner/A2 in
Crl.O.P.No.18717/2015

Arumugam,
working as Superintendent of Police,
Food Cell,
Puducherry Police Department,
Puducherry.

... Petitioner/A3 in
Crl.O.P.No.20795/2015

S.Shankaran,
S/o. Subramanian

... Petitioner/A1 in
Crl.O.P.No.23104/2015

Versus

1. Anandhan
S/o.Jaganathan

2. Shankaran,
S/o.Subramanian

... Respondents
in both Crl.O.P.Nos.
18717 & 20795 of 2015

Anandan
S/o.Jagannathan

... Respondent in
Crl.O.P.No.23104/2015

COMMON PRAYER : Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to call for records in connection with proceedings in Spl.C.C.No.15 of 2015 on the file of the Special Judge, Puducherry and quash the same.



For Petitioners : Mr.M.Gnanasekar
in Crl.O.P. Nos.18717
& 20795 of 2015

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For Petitioner : Mr.Sai Krishnan
in Crl.O.P..No.23104/2015

For Respondents : Mr.S.Sairaman for R1
in Crl.O.P. Nos.18717
& 20795 of 2015 Mr.Saikrishnan for R2

For Respondent : Mr.S.Sairaman
in Crl.O.P..No.23104/2015

COMMON ORDER

(This case has been heard through video conference)

These Criminal Original Petitions have been filed to quash the private complaint filed in Spl.C.C.No.15 of 2015 on the file of Special Judge, Puducherry.

2. It is a private complaint filed by the respondents for the alleged offence under Sec. 166, 167, 418, 420, 29 of Police Act and Sec.13(1)(d) and 13(2) of Prevention of Corruption Act. It is stated that , there was a money dispute between the 1st respondent/complainant and A1 in this case. Thereafter, the matter has been settled by A2, wherein the 1st respondent/complainant agreed to pay some amount and it was also agreed that on payment of the amount, A1 in this case should return some document and signed blank paper given by the 1st respondent/complainant as security to A1. Even though the entire amount has been paid to A1, A1 failed to return the documents given by the 1st respondent/complainant to him. That apart, he has also criminally intimidated him. Hence, he has given a complaint before A2, Special Superintendent of Police, Puducherry which was not registered. Hence, he has given a complaint before the Inspector General of Police, Puducherry. Only thereafter, on 22.07.2014, a F.I.R. has been registered against A1 for the offence under Sec.506(i) I.P.C. and 7(1)(d) of P.C.R. Act, 1955. Even after registering the complaint, A2 did not take any steps to get over the documents and to arrest A1. Thereafter, A3, has taken charge and A3 also did not take any steps to recover the documents from A1. Hence, he has filed a private complaint and the learned Special Judge under the P.C.Act, Puducherry taken cognizance of offence under Sec.166, 167, 418, 420, 29 of Police Act and Sec.13(1)(d) and 13(2) of P.C.Act. Now, to quash the private complaint, the present petition has been filed.



3. The learned counsel appearing for petitioners would submit that on perusal of complaint, absolutely there is no materials to make out the offence under Prevention of Corruption Act and also no offence has been made out under Sec.166, 167, 418, 420, 29 of Police Act. Admittedly, based on the complaint filed by the 1st respondent/complainant, a criminal case has been registered and now after investigation, the final report was also filed by the Inspector of Police, P.C.R. Wing. Now, the petitioners/A2 and A3 are no way connected with the registration of F.I.R. and to conduct the investigation. Hence, they have been falsely implicated. That apart, a civil suit filed by A1, in O.S.No.98 of 2014 seeking for specific performance is pending before the Principal District Court, Puducherry, wherein the 1st respondent/complainant is also contesting the suit. It is only a civil dispute between the parties, now giving the colour of criminality, the present private complaint has been filed, which is nothing, but clear abuse of process of law. So far as A2 and A3 are concerned, absolutely not even a single whisper in the complaint that A2 and A3 received illegal gratification to support A1. Hence, the offence under Sec.13(1)(d) and 13(2) of P.C. Act cannot be made out. That apart, they are only Special Superintendent of Police, they have no role to register the complaint given by the 1st respondent/complainant and reinvestigate the same.

4. The learned counsel appearing for 1st respondent/complainant would submit that as per the earlier settlement, the 1st respondent/complainant given entire amount to A1. Despite receipt of amount, A1 failed to return the document given by him as security. That apart, he was also criminally intimidated. A2 and A3 have received illegal gratification from A1, and, they have not taken any steps to recover the documents and also not arrested A1. In these circumstances, they have committed the offence under Sec.166, 167, 418, 420, 29 of Police Act and Sec.13(1)(d) and 13(2) of P.C.Act. That apart, now using the blank stamp papers given by the complainant, A1 had forged the document and based on that, he has also filed a civil suit. Hence, he has committed the offence under Sec.166, 167, 418, 420, 29 of Police Act and Sec.13(1)(d) and 13(2) of P.C.Act. In the Sworn-in-statement given by the 1st respondent/complainant, he has clearly stated that A2 and A3 have received money from A1. The learned Special Judge after perusing the materials and being satisfied with the complaint issued summons to all the accused.

5. Heard submissions of learned counsel appearing for petitioners as well as learned counsel appearing for respondents and perused the records.



6. On perusal of complaint, it is stated that there was a money dispute between the 1st respondent/complainant and A1. In the earlier complaint given by the complainant, a settlement was arrived, by which, the 1st respondent/complainant is to return entire money, in turn, A1 also agreed to return the documents, which was given as security by the complainant. Even though the complainant has returned entire money, A1 failed to return the documents. Thereafter, A1 criminally intimidated him. Hence, a complaint was lodged, that was not registered and not properly investigated. Thereafter, the present private complaint has been lodged. However, on perusal of the complaint, it could be seen that based on the complaint given by the 1st respondent/complainant before the concerned Inspector of Police, P.C.R.Wing, a crime has been registered in F.I.R. No. 6 of 2014 for the offence under Sec.506(i) I.P.C. and under Sec.7(1)(d) of P.C.R.Act. It is also stated that the Inspector of Police, P.C.R.Wing, after completion of investigation, filed the final report and the matter is pending for trial. As regards A2 and A3, who are Special Superintendent of Police, Puducherry and they have no role in registering the complaint given by 1st respondent/complainant. Even in the complaint, absolutely there is no whisper against A2 and A3 that both A2 and A3 have received illegal gratification and only subsequently, in the sworn-in-statement, the 1st respondent/complainant vaguely stated that they have demanded money. In the above circumstances, the offences under Sec.13(1)(d) and 13(2) of Prevention of Corruption Act is not made out. So far as other offences against A1, now it is stated that a civil suit is pending between the parties, wherein the 1st respondent/complainant is also contesting the same. Whether the 1st respondent/complainant paid entire amount to A1 and whether the sale agreement is forged are to be decided only by the civil court. In the above circumstances, only the civil court and at this stage, it cannot be decided by the Criminal Court. Therefore, I am of the considered view that no prima facie case is made out against all the accused and hence, the private complaint filed in Spl.C.C.No.15 of 2015 on the file of Special Judge (under the P.C. Act), Puducherry is only liable to be quashed.

7. In the result, the Criminal Original Petitions are allowed and the case against the petitioners in Spl.C.C.No.15 of 2015 on the file of the Special Court, Puducherry, is quashed. Consequently, connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar (CS IV)
//True Copy//

Sub Assistant Registrar

rpp



To

The Special Judge,
Puducherry.

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+2ccs to Mr.S.Sairaman, Advocate, S.R.No.59584 & 59586

+1cc to Mr.V.Illanchezian, Advocate SR.59585(10/01/2022)

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& 23104 of 2015

VSNII (CO)
CS/30/11/2021