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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.10.2021

CORAM:

THE HONOURABLE MR.JUSTICE C.V.KARTHIKEYAN

CRL.O.P.NO.20688 OF 2015

AND

M.P.NO.1 OF 2015

1. V.M.Ganesan
2. G.Jayasudha

... Petitioners/Accused
Nos.1 and 2

.Vs.

State Rep. by
The Inspector of Police,
City Crime Branch,
Coimbatore.

... Respondent/Complainant

PRAYER:-

Criminal Original Petition filed under Section 482 Cr.P.C., to call for the records in C.C.No.48 of 2014 on the file of the learned Judicial Magistrate Court No.I, Coimbatore, Coimbatore district and quash the same.

For Petitioners : Mr.C.D.Johnson

For Respondent : Mr.E.Raj Thilak
Additional Public Prosecutor

ORDER

This petition has been filed seeking to quash C.C.No.48 of 2014, which was said to be pending on the file of the learned Judicial Magistrate No.I, Coimbatore. Subsequently, the said Calendar Case has been transferred to the learned Judicial Magistrate No.VII, Coimbatore and re-numbered as C.C.No.2973 of 2019.

2. The petitioners herein, who have been arrayed as A1 and A2, claimed to be owners of residential property No.295, Siddhi



Vinayagar Temple Street, R.S.Puram, Coimbatore-I. The property was leased out to one Kamalam, wife of Venugopal, after receiving a sum of Rs.6,00,000/- as lease amount. There was an obligation to return back the lease amount.

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3. Thereafter, the defacto complainant had given a further amount of Rs.5,50,000/- on the hope that the property would be leased out to him. But, the petitioners herein had failed to give vacant possession of the property to the defacto complainant, necessitating the defacto complainant to give a complaint alleging offences under Sections 406, 420 r/w 109 of I.P.C.

4. It is contended that the entire issues are civil in nature and filing of a criminal complaint should not have been taken cognizance by the learned Magistrate.

5. Heard the learned Counsel for the petitioner and also the learned Additional Public Prosecutor.

6. Primarily, the complaint surrounds taking of lease of a property, which had already been leased out to another individual. The petitioners probably were under the impression that the first lessee would vacate and thereafter, if vacant possession had been obtained, they could have leased it out to the defacto complainant. Since vacant possession had not been given, inspite of receiving Rs.5,50,000/-, a complaint had been lodged, which had been finally culminated with the Calendar Case now as C.C.No.2973 of 2019, on the file of the learned Judicial Magistrate No.VII, Coimbatore.

7. I would give every liberty to the petitioners herein to urge before the learned Judicial Magistrate that the issues are only civil in nature and the learned Magistrate can also explore the possibility of inviting the parties to settle the issue through mediation.

8. It is a fact that the matter relates to the issue is of the year 2011, which is nearly about 10 years ago. Let the learned Judicial Magistrate examine whether the defacto complainant is still interested in taking lease of the said property and also whether the said property is available to be given on lease.

9. In the course of examining the facts of the case, if the parties opt to settle the issues through mediation, the learned Magistrate may also encourage them accordingly.

10. With the above said observation, the present Criminal Original Petition is disposed of with a direction to the



petitioners to participate in the trial proceedings.
Consequently, the connected miscellaneous petition is closed.

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Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

grs

To

1. The Judicial Magistrate No.VII,
Coimbatore.
2. The Inspector of Police,
City Crime Branch,
Coimbatore.
3. The Public Prosecutor,
High Court, Madras.

CRL.O.P.NO.20688 OF 2015 AND
M.P.NO.1 OF 2015

BR(CO)
PBS/01/11/2021