



Crl.O.P.No.8439 of 2021

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and
Crl.M.P.No.5559 and 5560 of 2021

SATHIKUMAR SUKUMARA KURUP, J.

The learned Single Judge of this Court had passed an order in Crl.O.P.No.8439 of 2021 on 13.09.2021 by observing,

"12.Considering the submissions and on perusal of the materials, the relationship between the petitioners and the respondent is not disputed. The respondent approached one Krishnamoorthy, Villager known to both the petitioners and the respondent, through whom, the sale deed was executed on 12.01.2012. The witnesses have clearly stated that no amount was received, while executing the sale deed and it was a promise, that the marriage expenses of the two daughters of the respondent would be met by the petitioners, but they failed to do so. In that crucial hours, the respondent was forced to borrow and conduct his daughters marriage. There are other persons Viz., one Ramamoorthi S/o.Thambusamy, who confirm the complaint and the statement of the respondent, as regards the earlier enquiry, one Balamurugan Sub-Inspector of Police attached to Vakavanur Police Station and Maria Sopi Manjula, Inspector of the Land Grabbing Cell state



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about the enquiry conducted by them. From their evidence, it is clear that only petition enquiry conducted and no F.I.R. registered.

Further, it is also not in dispute that cheque for Rs.5,00,000/- handed over by the petitioners was not honoured for the reason that the cheque was drawn beyond Rs.2,00,000/- exposing the deception at the interception. Further, the trial Court, on the receipt of the complaint, recorded the sworn statement and the statement of witnesses and on perusal of materials, satisfied that a prima facie case is made out, issued summons to the petitioners. Now, the petitioners are projecting that the respondent's earlier complaint with Valavanur Police Station and Anti Land Grabbing Cell, Villupuram, are for the same cause of action which was now closed and the present complaint is not sustainable. Further, the cause of action is Civil case and Criminal case are not one and the same. Pendency of the Civil suit will not absolve the petitioners and prohibit the respondent to proceed with the Criminal case. Further earlier no F.I.R. registered, and no investigation conducted, it was only petitioner enquiry. Hence, there is no bar in proceeding with the above Criminal case. The respondent, who is already 72 years old, has been running from pillar to post from the year 2012 seeking justice. The points raised by the petitioners are factual in nature, which have to be decided only during the trial and not in this quash petition. In view of the same, this Court is not inclined to entertain the quash petition. Hence, the petition is dismissed. Consequently, connected miscellaneous petition is closed.



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13. Considering the age and the ordeals faced by the respondent from the year 2012 seeking justice, this Court directs the trial Court to conclude the trial within a period of six months from the date of receipt of a copy of this order. If the petitioners attempt to dilatory tactics by not cooperating with the trial, the trial Court is directed to take coercive action."

2. The learned Judicial Magistrate No.II, Villupuram had sought for extension of time of 6 months to proceed with the trial stating that the Complainant had not been cooperating with the proceedings by letting in evidence. After grant of sufficient opportunities, if the Complainant fails to let in evidence, this being the private complaint, the learned Judicial Magistrate can pass appropriate order as per the provision available under Cr.P.C., in-stead of granting repeated adjournments. The learned Judicial Magistrate can pass the appropriate order under the facts and circumstances of the case.

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