



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.12.2021

CORAM

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

CRL. O.P. NO.4273 OF 2017

AND

CRL.M.P.NOS.3213, 14655 & 14656 OF 2017

1.R.Durairaj
2.R.Sasikumar
3.R.Thiruvengadam

...Petitioners

Vs.

R.Sasikala Rajan

...Respondent

PRAYER: Criminal Original Petition filed under Section 482 of Criminal Procedure Code, praying to call for the records relating to the complaint in C.C.No.3621 of 2012, on the file of the XVIII, Metropolitan Magistrate, Saidapet, Chennai and quash the same.

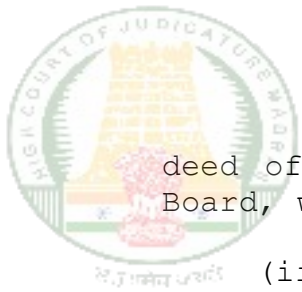
For Petitioners : Mr.N.Vijaya Basker

For Respondent : No appearance

ORDER

This Criminal Original Petition has been filed to call for the records relating to the complaint in C.C.No.3621 of 2012, on the file of the XVIII, Metropolitan Magistrate, Saidapet, Chennai and quash the same.

2. The private complaint has been filed against the petitioners who are arrayed as 6th , 7th and 8th accused in C.C.No.3621 of 2012 for the offence under Sections 420, 447, 423, 468, 472 and 120B(2) and 503 of IPC. The crux of the complaint is that 7th accused is a practising Advocate, 6th and 8th accused are his brothers. Primarily, the entire allegation in the complaint indicate that the respondent has filed a suit for specific performance against one Mr.Ravichandran, who arrayed as 1st defendant in O.S.No.5493 of 2008 on the file of the VIII- Assistant City Civil Judge, Chennai in order to execute the sale



deed of the allotment property of the Tamilnadu Slum Clearance Board, which was allotted to the 1st defendant.

(ii). On the basis of the sale agreement said to have been entered between the defacto complainant and one Ravichandran on 22.11.1995, sale price was fixed for Rs.2,20,000/- On the date of said Agreement, a sum of Rs.5,000/- has been paid by the complainant towards sale advance in cash to the said Ravi @ Ravichandran. Thereafter, she has made various payments in aggregate a sum of Rs.2,20,000/-. Thereafter, Mr.Ravichandran instead of executing the sale deed, executed a General Power of Attorney on 08.01.1998 in favour of the defacto complainant's husband and authorized him to look after the said property. Besides, some other payments were also paid towards the said sale deed, as such, the sale deed was not executed. Thereafter, she has filed a civil suit in O.S.No.5493 of 2008, on the file of the learned VII Assistant City Civil Court at Madras against Ravichandran, his wife and others and the same is pending. While pendency of the civil suit, Mr.Ravichandran/1st defendant died on 27.05.2008. Thereafter, the respondent has filed a petition to implead the legal heirs of the 1st defendant. Pursuant to that, the City Civil Court had granted Interim Injunction in favour of the complainant in I.A.No.7229 of 2009 in O.S.No.5493 of 2008, against the said Ravi @ Ravichandran /1st Accused or his wife from interfering with the peaceful possession and enjoyment of the complainant's property in the order 22.04.2009.

(iii). Further, the present petitioner also intimidated the complainant on several occasion in her house, for which, she has given a complaint in Velachery Police Station. Though, the complaint has lodged in Velachery Police Station, they have not taken any action since accused 6, 7 & 8 are ruling party persons. Hence, private complaint is filed.

3. The learned counsel for the petitioner mainly contended that A7 appeared on behalf of the defendants as a lawyer, which led his entire family members to be implicated in the private complaint. Absolutely, there is no allegation in the complaint, except in Paragraph No. 10 that these petitioners caused intimidation. He further submitted that the defacto complainant is residing at Valasaravakkam. While being so, it is highly improbable that she had given a complaint to the Velachery Police Station and the same is pressed into service, only in order to threaten the legal practitioners. At any event, the allegation is bereft of details and motivated. Hence, he prayed to quash the complaint.

4.Despite the name being printed in the cause list, none appeared on behalf of the respondent.



5. In view of the above, this Court is of the view that the very complaint indicate that primarily, there was a dispute between the defacto complainant and others in respect of sale agreement said to have been executed between them. In this regard, civil suit has been filed in O.S.No.5493 of 2008, which is pending on the file of the VIII-Assistant City Civil Court, Chennai, in which, A7 /second petitioner has also filed vakalat, the same could be seen from the documents appended in the typed set. These facts clearly indicates that counsel appearing on behalf of the defendants have been robed into this private complaint. Except the allegations in paragraph no. 10, no other allegation is made against these petitioners. Even the entire allegation in para 10 of the private complaint which was taken as proof, the same would not constitute any offence. In this regard, there is no materials available on record to show that these petitioners have alleged and threatened the complainant.

6.It is to be noted that the very allegation itself clearly indicate that the complaint said to have been lodged before the Velachery Police Station by the defacto complainant which is highly improbable. Since, the very address of the respondent indicate that she is residing in her house at Valasaravakkam. Therefore, her allegation itself appears to be motivated. In such view of the matter continuing the prosecution of private complaint against the petitioners is nothing but abuse of process of law.

7. Accordingly, this Criminal Original Petition is allowed. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS-V)

//True Copy//

Sub Assistant Registrar

nr/msv

To

The XVIII Metropolitan Magistrate,
Saidapet, Chennai.

Cr1. O.P. No.4273 of 2017
and Cr1.M.P.Nos.3213,14655 &14656 of 2017

RGN(CO)
RLP(04/01/2022)