

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 23.02.2021
CORAM

THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

Crl.O.P No.5616 of 2017
and Crl.M.P No.4218 & 4219 of 2017

1. M.Sridhar
2. V.Thulasidass ..Petitioners/Accused 1 & 2
vs.
M.M.A.Sathiyathan ..Respondent/Complainant

PRAYER: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to call for the records in C.C.No.43 of 2017 on the file of the learned Judicial Magistrate, Mettupalayam and quash the same.

For Petitioners : Mr.M.Guruprasad
For Respondent : Mr.C.Ramkumar

ORDER

This petition has been filed to quash the private complaint filed by the respondent in C.C.No.43 of 2017 on the file of the learned Judicial Magistrate, Mettupalayam.

2.The respondent who is said to be a distant relative of one Balasubramaniyan has filed a private complaint before the Court below on the ground that the petitioners were working for Balasubramaniyan and they had intelligently removed him from the business and have taken over the entire business and assets belonging to the said Balasubramaniyan. That apart, the petitioners have also managed to grab contracts in their favour and thereby deprived the business opportunities of the son of the said Balasubramaniyan. In short, the complaint states that the petitioners have manipulated and taken over the business of Balasubramaniyan and have unjustly enriched themselves and thereby have committed the offences under Sections 420 and 120(b) IPC.

3.Heard the learned counsel for the petitioners and the learned counsel appearing on behalf of the respondent.

4.In the considered view of this Court, the entire complaint is frivolous and is a clear abuse of process of Court. Mr.Balasubramaniyan, whose business is alleged to have been knocked off by the petitioners, did not complain about the same

when he was alive. His children also did not complain against the petitioners. The respondent who is a distant relative of Balasubramaniyan has given the above complaint and it is not known as to how the respondent has the *locus standi* to maintain such a complaint.

5. That apart even if the allegations made in the complaint are taken as it is, the same does not constitute an offence of cheating and conspiracy. The Court below has not applied its mind while taking cognizance of the complaint and the process has been issued to the petitioners in a mechanical fashion.

6. In view of the above, the continuation of the criminal complaint against the petitioners clearly amounts to abuse of process of Court which requires the interference of this Court in exercise of its jurisdiction under Section 482 of Cr.P.C.

7. In the result, the proceedings in C.C.No.43 of 2017 on the file of the learned Judicial Magistrate, Mettupalayam is hereby quashed and this criminal original petition is accordingly allowed. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

To

The Judicial Magistrate,
Mettupalayam.

+1cc to Mr.M.Guruprasad, Advocate SR.NO..11182

AKM/18.03.21/2P-3C/

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