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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 30.11.2021

Coram:

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

Crl.O.P.No.23019 of 2017

&

Crl.M.P.No.13393 of 2017

1. P.K.Gunasekaran
2. Jayalakshmi

...Petitioners/Petitioners

Vs

R.Bhaskaran

...Respondent/Respondent

PRAYER: Criminal Original Petition filed under Section 482 of Criminal Procedure Code, to call for the records relating to the private complaint filed under section 200 of Cr.P.C. in which charge sheet pending in C.C.No.865 of 2016 on the file of the learned V Metropolitan Magistrate, Egmore, Chennai and quash the same.

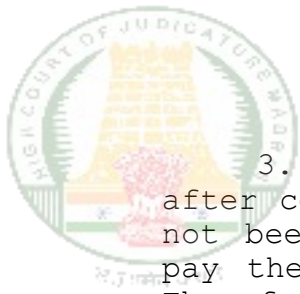
For Petitioners : Mr.Duraikannan

For Respondent : Ms.S.Annakodi

O R D E R

This petition has been filed to quash the private complaint filed by the respondent for the offences under sections 406, 420 and 506 [iii] of IPC.

2. It is the contention of the learned counsel for the petitioner that the private complaint has been filed with false allegations. Even if the entire private complaint is taken on its face value, the allegation is only with regard to the non payment of certain amount in a building work. At no stretch of imagination, the same will constitute any offence. The very contract entered between the parties will indicate that the defacto complainant has voluntarily given the land to construct a building in terms of an agreement. Therefore, the complaint is nothing but an abuse of process of law. Hence, the private complaint has to be quashed.



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3. The learned counsel for the respondent submitted that after certain works have been carried, a sum of Rs.3,00,000/- has not been paid. In spite of a direction given by the police to pay the amount, the accused did not pay the remaining amount. Therefore, it is a clear case of cheating.

4. Heard the learned counsel appearing for the petitioners and the learned counsel for the respondent.

5. Normally, the Courts will not interfere with the private complaint or the First Information Report. However, when the Courts find that the same is a result of a civil dispute and given a criminal colour and for the purpose of recovering any money or if the entire complaint is taken as a proof, would not constitute any offence, then in such a scenario, the Courts would prevent abuse of process of law by quashing the First Information Report or the private complaint. On a perusal of the entire allegations in the private complaint filed by the respondent, it is seen that the only grievance of the respondent appears to be that the petitioners have not paid certain amount and as against Rs.22 lakhs, the petitioners had paid only Rs.19 lakhs. Except the above allegation, there is no other allegations made in the private complaint. Even if the entire allegations in the complaint is taken as a proof, offences under sections 406 and 420 of IPC will not be attracted. Similarly, except stating that the petitioners used abusive words, there is no whisper as to the nature of vituperative language or obscene words spoken by the petitioners against the respondent. In such view of the matter, continuing the proceedings based on the private complaint is nothing but abuse of process of law and the allegations have been included only to attract penal offences. Hence, this Court is inclined to quash the proceedings against the petitioner.

6. Accordingly, this Criminal Original Petition is allowed and the private complaint in C.C.No.865 of 2016 on the file of the learned V Metropolitan Magistrate, Egmore, Chennai against the petitioners is quashed. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar

True Copy//

Sub Assistant Registrar

vrc/kbs



To

1. The V Metropolitan Magistrate,
Egmore, Chennai.
2. The Chief Metropolitan Magistrate,
Egmore, Chennai.

+lcc to Mr.R.Vijayaraghavan, Advocate, S.R.No.62923

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NSK 10/12/2021