



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.11.2021

CORAM :

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

CrI.O.P.No.16710 of 2017

and

CrI.M.P.Nos.10255 and 10256 of 2017

Padmavathi

... Petitioner /Accused

Vs

S. Raguram

... Respondent /Complainant

Prayer: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure (Cr.P.C) to call for the entire records pertaining to C.C.No.213 of 2017 on the file of the Learned Judicial Magistrate No.I, Udumalpet and quash the same.

For petitioner ... Mr.S.T.Raja
for M/s. Om Sairam Law Firm

For respondent ... Ms.Kavya Silambanan

O R D E R

This Criminal Original Petition has been filed to quash C.C.No.213 of 2017 on the file of the Learned Judicial Magistrate No.I, Udumalpet.

2. Heard Mr.S.T.Raja, learned counsel appearing for the petitioner and Ms.Kavya Silambanan, learned counsel appearing for the respondent.

3. Basis for such prosecution is the pleadings made in the plaint filed by the petitioner in O.S.No.340 of 2016, on the file of the District Munsif, Udumalpet, to declare the sale deed as null and void. In paragraph 9 of the plaint, the accused has alleged that the defendants 2 and 6 have colluded with each other and sold almost all the assets of the first defendant Company, without conducting any General Body Meeting, to various parties suppressing the actual value realised, thereby recording lower value in the books of accounts and made huge personal gain out of the books.



4. In paragraph 14, it is alleged that defendants 5 and 6 have colluded for the sale of the suit property to the son of the second defendant who is the fourth defendant since second to fourth defendants have colluded or concurred for the sale of another property of the first defendant Company worth about Rs.250 lakhs to the sixth defendant for a paltry sum of Rs.30.12 lakhs to defraud the first defendant Company and the plaintiff. The said pleadings was taken as exception and filed a private complaint that those statements are defamatory allegations.

5. It is the contention of the learned counsel appearing for the petitioner that suit itself is filed for declaration of sale deed as null and void executed by the defendants 2 and 6. The conduct of the parties have been pleaded in the plaint. Therefore, at no stretch of imagination, such pleadings will amount to imputation causing harm to the respondent.

6. It is his further contention that when the Civil Suits are pending only with regard to the documents, the details of fraudulent activities has to be necessarily pleaded under Order 6 Rule 4 of the Code of Civil Procedure Code. Merely because such pleadings were made, when the suit is pending, without showing that such statement is lowering the reputation of the respondent, the complaint is not maintainable.

7. Whereas the learned counsel appearing for the respondent submitted that such imputation will not fall within any of the exception to Section 499 of the Indian Penal Code and contended that once serious allegation is made, the same can be decided only at the stage of trial and not by way of Criminal Original Petition and hence prays for dismissal of the Criminal Original Petition.

8. I have considered the submissions made on either side and perused the materials available on record.

9. It is not in dispute that private complaint itself is filed for lowering imputation of the respondent. It is the contention of the defacto complainant that statements made in the plaint challenging the sale deed amounts to imputation. It is to be noted that the suit itself is filed against the sale deed which said to have been executed by the defendants. The circumstances narrated in the plaint cannot be considered as imputation at all. Therefore, such statement challenging the sale deed is taken as an imputation and complaint is entertained and there will be a complaint to counter blast every Civil suit. When the application itself is still pending and further, there



is no material available from the complaint that such imputation or statement has lowered the reputation of the defacto complainant, the very complaint for prosecution for the alleged offence punishable under Section 500 of the Indian Penal Code cannot be entertained. Therefore, this Court is of the considered view that continuation of prosecution is nothing but a waste of time.

10. Accordingly, this Criminal Original Petition is allowed and C.C.No.213 of 2017, pending on the file of the learned Judicial Magistrate No.I, Udumalpet, is quashed. Consequently, connected Criminal Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar(CS-IX)

//True Copy//

Sub Assistant Registrar

mvs.

To

1.The Judicial Magistrate No.I,
Udumalpet.

2.Do Thro The Chief Judicial Magistrate,
Tiruppur.

+1cc to Mr.Kaavya Silambarasan, Advocate SR.No.58723

+1cc to Mr.OM Sai Ram, Advocate SR.No.58684

Cr1.O.P.No.16710 of 2017

CP(CO)
GN(30/11/2021)