



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.16711 of 2017
and
CrI.M.P.Nos.10257 and 10258 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.214 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.214 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.339 of 2016, on the file of the District Munsif, Udumalpet, to declare the sale deed as null and void. In paragraph 10 of the plaint, the plaintiff therein has alleged that the ulterior motive is to pass on the building to the sixth defendant silently as a reward for the cooperation of the fifth and sixth defendants for other illegal activities of the second to fourth defendants to defraud the



first defendant Company and the plaintiff.

4. In paragraph 17, it is alleged that fraud and collusion between the majority shareholders with an ulterior motive of defrauding the first defendant company, minority shareholders the plaintiff herein, State and Central Exchequer, the corporate veil could be removed and the undervalued transactions to be probed in order to find out the truth. The said pleadings were 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 499 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.214 of 2017, pending on the file of the learned Judicial Magistrate . Consequently, connected Criminal Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

mvs.

To

1. The Judicial Magistrate No.I, Udumalpet.

2. The District Munsif, Udumalpet.

+1cc to Mr.S.T.Raja, Advocate, S.R.No.58683

Cr1.O.P.No.16711 of 2017

(CO)
CT 06/12/2021