



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.11.2021

CORAM

THE HONOURABLE MR. JUSTICE N.SATHISH KUMAR

CRL.O.P.No.17019 of 2017

and

CRL.M.P.Nos.10458 & 10459 of 2017

1. V.Selvaraj
2. M.Palanisamy
3. D. Jayaprakash

...Petitioners/A1 to A3

Versus

V.Maruchamy

...Respondent/Complainant

PRAYER: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, pleased to call for the records in C.C.No.44 of 2017 on the file of Judicial Magistrate, Mettupalayam and quash the complaint.

For Petitioners : Mr.G.Arul Murugan

For Respondent : Mr.M.Guruprasad

O R D E R

This Criminal Original Petition has been filed to quash the private complaint filed against the petitioners for the alleged offences under Sections 468, 471, 479, 420 and 506(i) of I.P.C. on the file of the learned Judicial Magistrate, Mettupalayam and the same has been taken on file in C.C.No.44 of 2017.

2. The crux of the allegations in the private complaint is that the first accused namely V.Selvaraj has created a settlement deed purportedly, executed by his father on 19.05.2004 with the connivance of other accused and it is a specific case of impersonation and thereby all the accused have been prosecuted.

3. It is the contention of the learned counsel for the petitioners that the first petitioner herein is the brother of the de-facto complainant. The father of the de-facto complainant



executed a settlement deed dated 19.05.2004 in favour of the first petitioner. Thereafter some dispute arose between the first petitioner and his father, which resulted in lodging a criminal complaint by his father against the first petitioner. Thereafter an enquiry was conducted by the Investigation Officer and an F.I.R. was registered in Crime No.458 of 2006. However, after investigation, the police has filed negative report and notice was also served on the de-facto complainant. The father of the first petitioner appeared before the learned Judicial Magistrate and gave no objection to close the matter. Based on that, the learned Judicial Magistrate had closed the matter as further action dropped. Thereafter it appears that the respondent/de-facto complainant has lodged another complaint making the same allegations as against the first petitioner. As there was no further action on his complaint, he filed a petition in Crl.O.P.No.28460 of 2015 before this Court and the same was disposed of by this Court with a direction to the police to conduct enquiry and proceed in accordance with law. Pursuant to the direction, the matter was again investigated and closed by the police. As the private complaint is based on the very same allegations, the private complaint is nothing but a motivated one and hence prays for quashment of the complaint.

4. Per contra, the learned counsel appearing for the respondent submitted that the settlement deed is a result of forgery and impersonation and the statement of the father before the learned Judicial Magistrate is due to threat. Therefore, the private complaint against the petitioners is maintainable.

5. Heard the learned counsel appearing on either side and perused the materials available on record.

6. While exercising powers under Section 482 of Criminal Procedure Code, normally the Court does not interfere with the complaint or F.I.R. At the same time, when the prima-facie allegations appears to be motivated and criminal colour has been given due to some civil dispute, the Court certainly will interfere and prevent the abuse of process of law.

7. The settlement deed dated 19.05.2004 was executed by the father in favour of his own son. After some time, the father gave a complaint against his own son, who is the settlee. An F.I.R. has been registered earlier, and the matter has been fully investigated and closure report has been filed by the investigating officer. Notice has also been sent to the de-facto complainant. The father of the de-facto complainant has appeared before the learned Judicial Magistrate and stated that he has no



objection to close his complaint. Only pursuant to this statement, the final report is accepted by the learned Judicial Magistrate and thereafter it also appears that the de-facto complainant being the brother of the first petitioner herein has also lodged another complaint immediately after the death of his father. After obtaining the direction from this Court in CrI.O.P.No.28460 of 2015 referred above, the matter has been investigated and the same has been closed. Suppressing those proceedings, now he has filed the private complaint alleging that there was impersonation.

8. When the executant itself has appeared before the learned Judicial Magistrate and given a statement that he has no objection for closing the report and has also given similar statement before the police, now it cannot be said that such a settlement deed was fabricated and a result of impersonation. When the executant of the document has not disputed the very execution, it is highly improbable to believe the contention of the de-facto complainant.

9. The complainant's contention is that the document is a result of forgery and impersonation. The entire allegation is nothing but motivated only due to depriving share in the property. Therefore, when the complaint is a result of motivation and allegations have been given criminal colour, such complaint cannot be allowed to continue in order to prevent the abuse of process of law.

10. For the aforesaid reasons, this Criminal Original Petition is allowed and C.C.No.44 of 2017 on the file of the learned Judicial Magistrate, Mettupalayam is quashed. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CS-IV)

// True Copy //

Sub Assistant Registrar

rsi/ham

To:

1.The Judicial Magistrate,
Mettupalayam.



2.The Public Prosecutor,
High Court, Madras.

+lcc to Mr.M.Guruprasad, Advocate SR.No.57989

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PL(CO)
CB(03/12/2021)