



IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 25.11.2021
CORAM :

THE HONOURABLE MR. JUSTICE N. SATHISH KUMAR

Crl.O.P.No.18596 of 2017
and
Crl.M.P.No.11316 of 2017

A.Ramachandran

... Petitioner

Vs.

1.The State,
Represented by its Inspector of Police,
City Crime Branch,
Salem City, Salem.

2.M.R.Chandrasekaran

... Respondent

Prayer: Criminal Original Petition filed under Section 482 Cr.P.C., to call for the records and quash the F.I.R. in Crime No.27 of 2014 on the file of the 1st respondent.

For Petitioner : Mr.A.Esakkiappan

For R1 : Mr.S.Vinoth Kumar
Government Advocate (Crl. Side)

For R2 : Mr.B.Vijayakumar

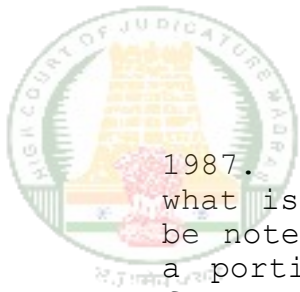
O R D E R

This Criminal Original Petition has been filed to quash the F.I.R. in Crime No.27 of 2014 on the file of the 1st respondent Police.

2.The crux of the allegations in the FIR is that the father of the de facto complainant had purchased the property in the year 1987 from the accused. The accused has suppressed the fact that a portion of the property is classified as Park, thereby, the accused has committed the offence under Section 420 IPC.

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

4.It is to be noted that the complaint was lodged in the year 2014 for the alleged offence. The sale deed has been obtained by the father of the de facto complainant in the year



1987. There is no whisper whatsoever in the complaint as to what is the nature of inducement made by the accused. It is to be noted that the very FIR itself clearly indicates that, since a portion of the property purchased by the father of the de facto complainant was occupied by someone else for putting up a temple, he raised the issue later with the Power Agent. This itself clearly indicates the motive for lodging the complaint that somebody has taken possession of the property for construction of temple at a later point of time.

5. Though this Court normally would not embark upon quashing of the F.I.R. while exercising jurisdiction under Section 482 Cr.P.C., when the F.I.R. indicates that the same is nothing but motivated or filed for some other reasons and the entire FIR when taken on its face value does not constitute any offence under Section 420 IPC, this Court can interfere with the same by exercising its jurisdiction under Section 482 Cr.P.C. to prevent abuse of process of law.

6. The FIR has been filed for the offence under Section 420 IPC. In any event, in order to attract the offence under Section 420 IPC, it must be shown by the de facto complainant that there was a fraudulent, dishonest act on the part of the accused or the accused has induced the person deceived to deliver any property to any person, or to consent that any person shall retain any property, or intentionally induced the person so deceived to do or omit to do anything which he would not do or omit if he were not so deceived, and which act or omission causes or harm to that person in body, mind, reputation or property.

7. The above makes it clear that, to attract the offence, there must be materials to show that there was inducement and deception played by the accused from the very inception. In the present case, the entire FIR, when taken on its face value, does not constitute any offence of cheating under Section 420 IPC. In such view of the matter, this Court is of the view that, continuance of investigation/prosecution as against the petitioner is nothing but an abuse of process of law. Therefore, this Court is inclined to quash the FIR.

8. Accordingly, this Criminal Original Petition is allowed and the FIR in Crime No.27 of 2014 on the file of the 1st respondent Police, is quashed. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar



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To

1.The Inspector of Police,
City Crime Branch,
Salem City, Salem.

2.The Public Prosecutor,
High Court, Madras.

+1 cc to Mr.A.Esakkiappan, Advocate Sr.NO. 61330

+1 cc to Mr.B.Vijayakumar, Advocate Sr.NO. 61463

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PL(CO)

A.S(08.12.2021)