



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 02.12.2021

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

Crl O.P.(MD)No. 7793 of 2021

and

Crl M.P.(MD)No.3959 of 2021

1.Korson Jaison

2.Ayyadurai

... Petitioners/Accused 4 & 6

Vs.

1.The State represented by
The Inspector of Police,
District Crime Branch (ALGSC),
Thoothukudi District.
(Crime No.6 of 2021)

... 1st Respondent/ Complainant

2.Chandraraj

... 2nd Respondent/
Defacto Complainant

Prayer : Criminal Original Petition is filed under Section 482 Cr.P.C., to call for the records in Crime.No.6 of 2021 on the file of the respondent police and quash the same.

For Petitioners : Mr.T.A.Ebeneser

For Respondents : Mr.P.Balamurugan for R2

ORDER

This Criminal Original Petition has been filed to quash the FIR in Crime.No.6 of 2021 registered on the file of the first respondent. The second respondent is the defacto complainant. The case of the defacto complainant is that the property belonging to him has been dealt with by the accused. This act of the accused will not constitute cheating or forgery. In the decision of the Hon'ble Supreme Court reported in **(2009) 8 SCC 751 (Mohamed Imbrahim and others Vs State of Bihar and Another)** , it was held as follows:

"17. When a document is executed by a person claiming a property which is not his, he is not claiming that he is someone else nor is he claiming

that he is authorised by someone else. Therefore,



execution of such document (purporting to convey some property of which he is not the owner) is not execution of a false document as defined under Section 464 of the Code. If what is executed is not a false document, there is no forgery. If there is no forgery, then neither Section 467 nor Section 471 of the Code are attracted.

20. When a sale deed is executed conveying a property claiming ownership thereto, it may be possible for the purchaser under such sale deed, to allege that the vendor has cheated him by making a false representation of ownership and fraudulently induced him to part with the sale consideration. But in this case the complaint is not by the purchaser. On the other hand, the purchaser is made a co-accused.

21. It is not the case of the complainant that any of the accused tried to deceive him either by making a false or misleading representation or by any other action or omission, nor is it his case that they offered him any fraudulent or dishonest inducement to deliver any property or to consent to the retention thereof by any person or to intentionally induce him to do or omit to do anything which he would not do or omit if he were not so deceived. Nor did the complainant allege that the first appellant pretended to be the complainant while executing the sale deeds. Therefore, it cannot be said that the first accused by the act of executing sale deeds in favour of the second accused or the second accused by reason of being the purchaser, or the third, fourth and fifth accused, by reason of being the witness, scribe and stamp vendor in regard to the sale deeds, deceived the complainant in any manner."

2. Respectfully following the aforesaid decision, the impugned FIR is quashed as far as the petitioners are concerned. This Criminal Original Petition is allowed. Consequently, connected miscellaneous petition is closed.

Sd/-

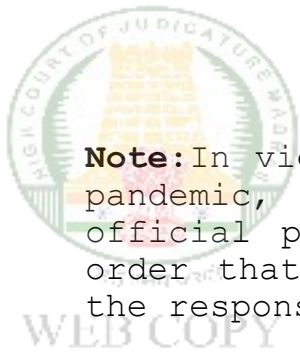
Assistant Registrar (CS I)

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/ /2021

Sub Assistant Registrar(CS)

mga/csm



Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

- 1.The Inspector of Police,
District Crime Branch (ALGSC),
Thoothukudi District.
- 2.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to M/s.P.BALAMURUGAN, Advocate (SR-37342[F] dated
03/12/2021)

Crl O.P.(MD)No.7793 of 2021
and
Crl M.P.(MD)No.3959 of 2021
02.12.2021

MGJ(17.12.2021) 3P 4C