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Crl.O.P(MD)No.10299 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 21.12.2021

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

Crl.O.P. (MD)No.10299 of 2021

and

Crl.M.P. (MD)No.5274 of 2021

K.Ravichandran

... Petitioner/Sole Accused

Vs.

1.The State represented by
The Inspector of Police,
Devakottai Town Police Station,
Sivagangai District.
(Crime No.293 of 2020)

... 1st Respondent/Complainant

2.Dhanasekar,
Clerk Justice(P),
Senior Revenue Inspector,
Sub Divisional Administrative Justice and
Revenue Divisional Office,
Devakottai,
Sivagangai District.

... 2nd Respondent/
Defacto Complainant

Prayer : Criminal Original Petition is filed under Section 482 Cr.P.C., to call for records pertaining to the FIR in Crime No.293 of 2020 on the file of the first respondent and quash the same.

For Petitioner : Mr.C.Mayilvahana Rajendran

For Respondents : Mr.E.Antony Sahaya Prabahar

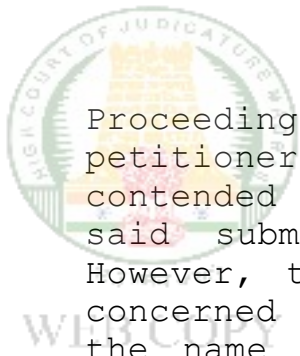
Additional Public Prosecutor for R.1

ORDER

Heard the learned counsel appearing for the petitioner and the learned Additional Public Prosecutor appearing for the first respondent.

2. The petitioner Ravichandran is having his residence in the back side of the house of Thomaiammal. The said Thomaiammal gave a complaint that on account of the location of the septic tank in the petitioner's house, the borewell installed in her house has been polluted. She therefore, gave a complaint under Section 133 Cr.P.C. before the Revenue Divisional Officer, Devakottai.

<https://hservices.ecourts.gov.in/hservices/>



Proceedings under Section 133 of Cr.P.C were initiated. The petitioner filed Crl.R.C.(MD)No.368 of 2020 before this Court and contended that the property does not belong to him. Recording the said submission, this Court granted interim order of stay. However, the authority was given liberty to proceed against the concerned party. It appears that the property actually stands in the name of the petitioner's son. Since this Court even while granting interim order permitted the authority to proceed in the matter, the issue was taken to its logical conclusion and final order was also passed. It is now stated that the nuisance has been fully abated. The old septic tank was completely closed and a new septic tank had been located at another place. The report given by the Block Medical Officer has been enclosed in the type set of papers and it is seen therefrom that as on date, there is no complaint.

3. Since the petitioner made a false statement before the Executive Magistrate, Crime No.293 of 2020 has been registered at the instance of the second respondent herein. As rightly pointed out by the learned counsel appearing for the petitioner, if perjury was committed by the petitioner then private complaint should have been instituted. The respondent Police could not have registered any FIR for offences under Sections 177, 209, 218 and 219 IPC. Though the offences under Section 425 IPC has also been included, it is seen that the essential ingredients are not present. Even if I assume that the offence of perjury was committed, it cannot be converted into a cognizable offence of cheating. The impugned FIR is not maintainable. It stands quashed. This Criminal Original Petition is allowed. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (AD II)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

mga

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.

<https://hcservices.ecourts.gov.in/hcservices/>



To

1.The Inspector of Police,
Devakottai Town Police Station,
Sivagangai District.

2.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to M/s.C.MAYIL VAHANA RAJENDRAN, Advocate (SR-
39869[F] dated 21/12/2021)

**Crl.O.P. (MD)No.10299 of 2021
and
Crl.M.P. (MD)No.5274 of 2021
21.12.2021**

SK(CO)
SB(07.01.2022) 3P 4C