



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATE : 20.01.2021

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THE HONOURABLE MRS. JUSTICE R. THARANI

CrI. R.C.(MD)No.657 of 2020

and

CrI.M.P.(MD)Nos.6576 & 6579 of 2020

WEB COPY

Ramakrishnan ... Petitioner/Petitioner/Accused No 1

Vs.

The Inspector of Police,
B5, South Gate Police Station,
Madurai District.

(Crime No.508 of 2015 ... Respondent/Respondent/Complainant

Prayer : This criminal revision case is filed under Section 397 r/w. Section 401 of Criminal Procedure Code to call for the records relating to the order dated 23.10.2020 made in Cr.M.P.No.1049 of 2020, in C.C.No.53 of 2018 on the file of the Judicial Magistrate Court No.IV, Madurai, partly allowing the discharge petition and to set aside the same insofar as the dismissal of discharge petition for the offences punishable under Sections 406 and 420 I.P.C as against the petitioner and allow the above revision.

For Petitioner : Mr.R.Gandhi

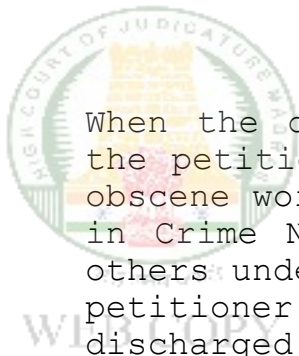
For Respondent : Mrs.S.Bharathi
Government Advocate

ORDER

This Revision has been filed to call for the records relating to the order dated 23.10.2020 made in Cr.M.P.No.1049 of 2020, in C.C.No.53 of 2018 on the file of the Judicial Magistrate Court No.IV, Madurai, partly allowing the discharge petition and to set aside the same insofar as to the dismissal of the discharge petition for the offences punishable under Sections 406 and 420 I.P.C.

2. The petitioner filed a petition for discharge before the trial Court in Cr.M.P.No.1049 of 2020 and the same was partly allowed by the Judicial Magistrate No.IV, Madurai, on 23.10.2020. Against that order, the petitioner approached this Court by way of revision.

3.The allegation against the petitioner is that the petitioner and his sister falsely represented that the property in Old Survey No.1737, New Survey No.1763/2 with an extent of 24 ½ cent belonged to them and they entered into a sale agreement with the defacto complainant on 17.05.2012 and received a sum of Rs.6,00,000/- as advance, whereas, they do not have any right over the property.



When the defacto complainant demanded the advance to be returned, the petitioner and other accused criminally intimidated and uttered obscene words against the defacto complainant through phone. A case in Crime No.508 of 2015 was registered against the petitioner and others under Sections 120-B, 406, 420, 294(b) and 506(i) I.P.C. The petitioner filed a petition for discharge and the trial Court discharged the petitioner from the charges under Sections 294(b) and 506(i) alone. Against that order, the petitioner preferred this Criminal Revision.

4.On the side of the revision petitioner, it is stated that the agreement was entered into between the petitioner and the defacto complainant in the year 2012, but, the criminal case was filed only in the year of 2015. The defacto complainant filed a suit before the Sub Court, Madurai and got a decree in his favour. Only to harass the petitioner and others, the defacto complainant lodged a criminal case and an F.I.R was registered by the respondent police on 04.07.2015. No criminal intention was mentioned by the defacto complainant in his first statement. There was no other allegation except that the property was sold by the petitioner's father. Only in the second statement, the defacto complainant has improved the case. There was some misunderstanding regarding obtaining patta in the name of the petitioner, which cannot be treated as a breach of trust. A civil case is coloured as a criminal case. Only in the second statement, the defacto complainant has mentioned that he failed to receive the copy of the document and that he failed to see the Encumbrance Certificate of the property. The property is situated in B.B. Kulam within the limits of Tallakulam Police Station. But, the complaint was lodged before the North Gate Police Station. When the civil Court has already passed a decree, there is no necessity for the petitioner to be harassed by the defacto complainant by way of a criminal case.

5.On the side of the respondent, it is stated that originally there was four accused in the case and three accused/A2 to A4 of them approached this Court in Crl.O.P.(MD)No.9718 of 2018 and the proceeding against A2 to A4 was quashed by this Court and a direction was issued by this Court to dispose of the matter within a period of six months. C.C.No.53 of 2018 was pending before the trial Court at the stage of 313 questioning and the case is adjourned to 22.01.2021 and prayed the petition to be dismissed.

6.It is seen that the defacto complainant filed a civil case before the Civil Court and has obtained a decree on his favour. Whether the allegation under Sections 406 and 420 I.P.C is made out against the accused can be decided only after completion of the trial. Already proceedings against three accused / A2 to A4 in the case was quashed by this Court and this Court has passed a direction to dispose of the case within a period of six months. It is seen that recording of evidence was almost over and the case is pending



for questioning under Section 313 Cr.P.C. and hence discharge the petitioner at this stage is unwarranted.

7.The Criminal Case itself is likely to be disposed of within a short period. Hence, the petition at this stage is not necessary. Without prejudice to both the parties, this Criminal Revision Case is dismissed. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar (CO)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

Ls

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 Judicial Magistrate Court No.IV,
Madurai.

2.The Inspector of Police,
B5, South Gate Police Station,
Madurai District.

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

+1 CC to M/s.R.GANDHI, Advocate (SR-1717[F] dated 21/01/2021)

Crl. R.C. (MD) No.657 of 2020
20.01.2021

(ES) CO

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