



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED :06.10.2021

CORAM:

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

Crl.O.P.(MD).No.7971 of 2018

and

Crl.M.P(MD)No.3640 of 2018

1.Kurshik Sharfudeen
2.S.K.Sharfudeen
3.Salai Sivamalai

... Petitioners/Accused Nos.1 to 3

-vs-

S.K.M.Sabeer Salik

... Respondent/Complainant

PRAYER : Criminal Original Petition is filed under Section 482 of Criminal Procedure Code, to call for the records relating to the private complaint in C.C.No.527 of 2018 on the file of the Judicial Magistrate Court No.II, Pudukkottai and quash the same as illegal.

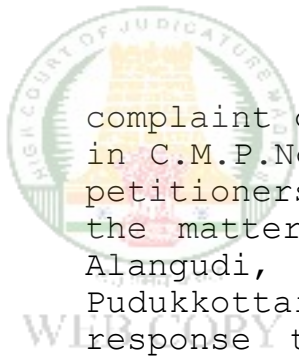
For Petitioners :Mr.M.Ajmal Khan,
Senior Counsel for
M/s.Ajmal Associates

For Respondent :Mr.D.Ramesh Kumar

O R D E R

This Criminal Original Petition is filed by the petitioners to call for the records relating to the private complaint in C.C.No.527 of 2018 on the file of the Judicial Magistrate Court No.II, Pudukkottai and quash the same as illegal.

2.The learned Senior Counsel appearing for the petitioners would submit that a private complaint was filed against the petitioners alleging that there was a civil dispute pending between the first petitioner and the respondent/complainant regarding undivided common assets. During pendency of the civil case before the appropriate Court, in the year 2008, the respondent/complainant's father passed away. After his demise, the respondent/complainant found that the second petitioner obtained new electricity connection in the name of "hafiz", without the knowledge of the respondent/ complainant's father and in the alleged forged document, the third petitioner put his signature as a witness. Therefore, the respondent/ complainant filed a



complaint on the file of the Judicial Magistrate Court, Alangudi in C.M.P.No.535 of 2012, seeking necessary action against the petitioners in accordance with law. In the above said C.M.P., when the matter came up for hearing, the learned Judicial Magistrate, Alangudi, directed the Inspector of Police, Crime Branch, Pudukkottai, to investigate the matter and report the same. In response to the same, the Inspector of Police, District Crime Branch, filed a closure report stating that the complaint was false. Aggrieved by the closure report, the respondent/complainant, filed Crl.O.P(MD) No.5296 of 2012. Pending Crl.O.P., on 24.07.2012, the respondent / complainant has withdrawn the complaint itself before the learned Judicial Magistrate, Alangudi and based on the same, the above said C.M.P., was dismissed as withdrawn. However, when Crl.O.P(MD)No.5296 of 2012 came up for hearing, suppressing the fact that there was no complaint pending before the learned Judicial Magistrate, Alangudi, sought for liberty to file a protest petition before the learned Judicial Magistrate and such liberty was also granted and Crl.O.P(MD)No.5296 of 2012 was disposed of. Thereafter, the respondent/complainant filed a protest petition and the same was taken cognizance by the learned Judicial Magistrate No.II, Pudukkottai, for the offence punishable under Sections 420, 468 r/w 109 I.P.C. Therefore, the petitioners have come forward to file the present petition with the aforesaid prayer.

3. When this Court questioned the learned counsel appearing for the respondent with regard to the withdrawal of the complaint by the respondent/complainant, it is stated that he would leave it to the Court to pass orders.

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

5. A perusal of the materials available on records, clearly shows that the very cognizance of the complaint by the learned Judicial Magistrate No.II, Pudukkottai, is not correct, in view of the fact that there was no complaint pending before the Court for taking cognizance as the complaint filed by the respondent/complainant was dismissed as withdrawn as early as on 24.07.2012. Admittedly, in Crl.O.P(MD)No.5296 of 2012, the respondent has not brought to the notice of this Court that the complaint itself was withdrawn. It is also stated that the petitioners were not parties to the said Crl.O.P. Had they been parties to the said Crl.O.P., they would have brought to the knowledge of this Court that the complaint has been withdrawn. Therefore, the learned Magistrate ought not to have taken the complaint on file. Hence, I am inclined to quash the proceedings in C.C.No.527 of 2018 on the file of the learned Judicial Magistrate No.II, Pudukkottai.

6. Accordingly, the Criminal Original Petition is allowed and <https://hdservices.com/govindhitesh> in C.C.No.527 of 2018 on the file of the learned



Judicial Magistrate No.II, Pudukkottai, is hereby quashed.
Consequently, the connected Criminal Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (CS-I)

WEB COPY

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

pm

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

The Judicial Magistrate No.II,
Pudukkottai.

+1 CC to M/s.AJMAL ASSOCIATES, Advocate (SR-31453[F] dated 07/10/2021)

Cr1.O.P.(MD) No.7971 of 2018
06.10.2021

TSK(CO)

KB(31.12.2021) 3P 3C