



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATE ON WHICH RESERVED : 23.03.2021

DATE ON WHICH PRONOUNCED : 30.04.2021

CORAM:

THE HON'BLE MR JUSTICE G.ILANGOVAN

Crl.O.P.(MD)No.10133 of 2017

and

Crl.MP(MD)No.6916 of 2021

WEB COPY

1.Inbaraj

2.Asha

... Petitioners/Accused Nos.1 & 2

Vs.

1.The Inspector of Police,
Town South Police Station,
Dindigul,
Dindigul District.

... 1st Respondent/Complainant

2.Santhana Mary

... 2nd Respondents/Defacto
Complainant

Prayer:Criminal Original Petition is filed under Section 482 Cr.P.C., to call for the records pertaining to the C.C.No.44 of 2017 on the file of the learned Judicial Magistrate No.III., Dindigul and quash the same.

For Petitioners : Mr.K.Manikandan

For R1 : Mr.M.Ganesan
Government Advocate (Crl.Side)

ORDER

This Criminal Original Petition has been filed to quash the proceedings in C.C.No.44 of 2017 on the file of the learned Judicial Magistrate No.III., Dindigul.

2. The second respondent herein has lodged a complaint before the first respondent police on 20.07.2016 with the following allegations:-

The property situated in T.S.No.936/1 measuring 600 sq.ft in Muthazhagupatti Village and 1.1 acres situated in S.No.868/15 belongs to her son, namely, Inbaraj and daughter-in-law, namely, Asha, cheated her and misappropriated the property to them. They also criminally intimidated her. Both are working as teachers. A complaint was also given to the Collector. The complaint was registered in Crime No.513 of 2014 under Section 294(b), 506(i) of IPC r/w Section 24 of the Maintenance and Welfare of Parents and



Senior Citizen Act 2007. The first respondent took up the investigation, recorded the statement of witnesses and filed a final report before the learned Judicial Magistrate No.III, Dindigul and taking allegation that the accused had committed the offence punishable in the above said sections.

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3. Seeking quashment of the final report, this petition is filed on the following grounds:-

The property situated in S.No.936/1 belongs to the defacto complainant and her husband, namely, Mariya Francis. On 10.07.2012, the de-facto complainant herein, executed a registered 'Thana Settlement Deed' in favour of the first petitioner. Later misunderstanding arose between them, as a result of which, she cancelled the same on 20.03.2015. Subsequent to that, she lodged a complaint. It is a civil dispute, which has been given a criminal colour by the defacto complainant. The defacto complainant and her daughter demanded huge amount from the petitioners, which was refused. Only due to that reason, a false complaint has been lodged and none of the allegations mentioned in the final report attract any of the offences as mentioned in the final report against these petitioners.

4. Heard both sides.

5. The first petitioner is the son and the second petitioner is the daughter-in-law of the defacto complainant. According to the defacto complainant, the accused person, who are the petitioners herein, cheated her and obtained a settlement deed in favour of the first petitioners herein. The settlement deed, dated 10.07.2012, reads that she got three daughters and one son, namely, the first petitioner herein. All the three daughters were properly married by giving proper sridhanas and they are also living happily. On the basis of love and affection, the defacto complainant had executed a settlement deed, in favour of the first petitioner and the possession was also handed over to him and he became the absolute owner of the property, from the date of settlement deed. It is also mentioned that he will be helping and taking care and also of the opinion that he will continue to extend the very same help and care in future also. But, later, it appears that some sort of dispute arose.

6. According to the petitioners, only at the instigation made by the other daughters, the defacto complainant, demanded huge amount from the first petitioner and the same was refused by him. So, on 20.03.2015, the sale deed was cancelled through the cancellation deed, wherein, it has been mentioned that the first petitioner did not do any of the obligations that has been imposed on him as per the earlier settlement deed, and he is not also helping and co-operating.



7. Whether the cancellation deed is valid or not is a question that has to be decided only by the Civil Court.

8. Now, the defacto complainant says that after obtaining settlement, they threatened her with dire consequences. Both of them are working as teachers. Even though, on the face of First Information Report and the Final Report, the offences under Sections 294(b), 506 (i) of IPC r/w Section 24 of the Maintenance and Welfare of Parents and Senior Citizen Act, 2007, are mentioned, whether the offences are made out can be only a matter for trial.

9. So, considering the present facts and circumstances of the case as well as the relationship between the parties, the Court is not in a position to settle the dispute and the petitioners have to face the trial of course only for an offence under Section 24 of the Maintenance and Welfare of Parents and Senior Citizen Act, 2007. In respect of the offences under Section 294(b), only vague allegations have been made in the complaint. Similarly, for the offence under Section 506 (i) IPC only vague allegations have been made. Even in the final report, where, when and how the petitioners abused and criminally intimidated were committed are not been specifically stated. Even the statement recorded under Section 161 Cr.P.C, does not reveal these facts.

10. So, on the basis of the vague allegations, the petition cannot be proceeded under Sections 294(b) and 506 (i) IPC. So, these two offences can be quashed and the petitioners have to face the offence under Section 24 of the Maintenance and Welfare of Parents and Senior Citizen Act, 2007, before the Trial Court.

11. So, the petition is partly liable to be allowed and the offence under Section 294(b) and 506 (i) IPC are quashed. Accordingly, this Criminal Original Petition is partly allowed. Consequently, the connected miscellaneous petition is closed.

12. Since the matter is of the year 2017, the Trial Court shall expedite the trial and complete the same with within three months from the date of receipt of a copy of this order and send a report to the Registry of this Court.

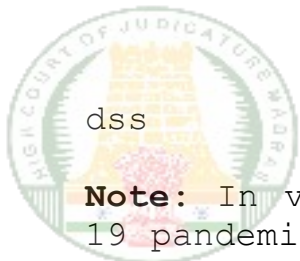
Sd/-

Assistant Registrar (AE)

// True Copy //

/ /2021

Sub Assistant Registrar (CS)



dss

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 No.III.,
Dindigul.
- 2.The Inspector of Police,
Town South Police Station,
Dindigul,
Dindigul District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

Copy to

- 1.The Registrar(Judicial)
Madurai Bench of Madras High Court,
Madurai.
- 2.The Section Officer, Criminal Section-2 copies
Madurai Bench of Madras High Court, Madurai.

Crl.O.P. (MD)No.10133 of 2017
and
Crl.MP (MD)No.6916 of 2021
30.4.2021

KM(21.05.2021) 4P 7C