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Crl.O.P.No.1109 of 2015

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.10.2022

CORAM:

THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

Crl.O.P.No.1109 of 2015

and

M.P.No.1 of 2015

E.Kannan

... Petitioner/Accused

Vs.

L.Ramachandran

... Respondent

PRAYER: Criminal Original Petition has been filed under Section 482 of Cr.P.C, prayed to call for the records in C.C.No.142 of 2014 dated 13.08.2014 on the file of learned Judicial Magistrate No.I, Panruti and quash the same.

For Petitioners : Mr.B.Harish
for M/s.K.M.Vijayan Associates
For Respondent : Mr.P.Vikram Kumar
Legal Aid Counsel

ORDER

This petition has been filed to quash the complaint in C.C.No.142 of 2014 dated 13.08.2014 on the file of learned Judicial Magistrate No.I, Panruti.



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2. The petitioner/accused in C.C.No.142 of 2014 facing trial for the offence under Section 420 I.P.C. on the private complaint filed by the respondent has filed this quash petition.

3. The contention of the petitioner is that there was an agreement of sale entered into between the petitioner and the respondent. As per the agreement, out of Rs.15.75 lakhs, which was the agreed amount to the sale consideration of the property, Rs.5.75 lakhs was paid by the respondent as advance to the petitioner on 28.07.2010 and thereafter within three months, the balance amount of Rs.10 lakhs to be paid. Having failed to comply with the condition, the respondent had filed a criminal complaint of cheating, giving criminal colour to a civil dispute.

4. Learned counsel for the petitioner submitted that the respondent attempted to throw away the petitioner from his property using rowdy element, against which, the petitioner filed a Civil Suit is O.S.No.157 of 2013, which is pending and obtained bare injunction not to disturb his peaceful possession. From the facts of the case, it is apparent that there is no offence made out under cheating. Further, private complaint has been used as arm twisting method by the respondent.



5. Learned counsel appearing for the respondent submitted that the petitioner admits that he had received a sum of Rs.5.75 lakhs. Thereafter, when the respondent was ready to pay the balance amount of Rs.10 lakhs, the petitioner had gone back on the sale agreement and refused to execute the sale deed. Further when the return of advance amount was sought, he agreed to repay, but failed to do so. The petitioner is enjoying the property and also the advance amount received from the respondent. The respondent had not used any force or threatened the petitioner. To escape from returning the advance amount and also to retain the property, the petitioner deceptively had filed a Civil Suit as though the petitioner was threatened and obtained an injunction. Using the Civil Court as umbrella, the petitioner neither come forward to execute the sale deed nor return the advance amount. Right from the injunction order, the petitioner had no intention to honour the agreement. Hence, the offence of cheating is clearly made out. The respondent had filed a private complaint before the Lower Court, thereafter, sworn statement taken. The Lower Court on the evidence and documents produced, found that *prima-facie* case is made out, taken the complaint on file and issued summons. Immediately, on receipt of summons, the petitioner had approached this Court and citing this petition, had been delaying the progress of the trial. He now submits that the case is posted for recording the evidence of P.W.1.



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6. Considering the submissions and on a perusal of material, it is seen that the case has been filed in the year 2014 and for the past 8 years, the case is yet to see his light. The case is now posted for recording of evidence of P.W.1. The points raised by the petitioner are factual in nature, which are to be decided by the trial Court not in the quash petition. It is not in dispute that the petitioner had received a sum of Rs.5.75 lakhs from the respondent. As per the agreement, the petitioner neither executed a sale deed nor returned the amount. In view of the same, this Court is not inclined to entertain this petition. Hence, this Criminal Original Petition is dismissed. Consequently, connected miscellaneous petition is closed.

7. The trial Court is directed to complete the trial within a period of three months from the date of receipt of copy of this order.

8. This Court places its appreciation to the legal aid counsel, who made effective defence in this case.

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Index : Yes/No

Internet : Yes/No

Speaking/Non speaking order

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1.The Judicial Magistrate No.I,
Panruti.

2.The Public Prosecutor,
High Court, Madras.



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M.NIRMAL KUMAR,J.

rsi

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