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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 31.01.2022

CORAM:

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

CRL.O.P.NO.18396 OF 2018

&

CRL.M.P.NO.9667 OF 2018

1. Ullashkumar Das

2. Kakali Das

... Petitioners

Vs

1. The State of Tamil Nadu
Rep. by its Sub Inspector of Police,
Kovilpalayam Police Station,
Coimbatore.

2. Srikanth Balaji

... Respondents

PRAYER : Criminal Original Petition filed under Section 482 Cr.P.C., to call for the records relating to the proceedings in crime No.144 of 2018, on the file of the Sub Inspector of Police, Kovilpalayam Police Station, Coimbatore, (the first respondent herein) and to quash the same.

For Petitioners : M/s.Elizabeth Ravi

For Respondents : R1 - Mr.S.Vinoth Kumar,
Government Advocate
(Criminal Side)

R2 - No appearance

O R D E R

This Criminal Original Petition has been filed to quash the F.I.R. in crime No.144 of 2018, on the file of the Sub Inspector of Police, Kovilpalayam Police Station, Coimbatore



filed against the petitioners for the offences punishable under Sections 120[B], 406, 420 and 506(i) of I.P.C.

2. The crux of the allegation in the F.I.R. is that the defacto complainant entered into an agreement with one Ullashkumar Das and Kakali Das for construction of the houses and it is agreed that eight houses to be constructed and out of eight, four houses to be allotted to them. They had spent about Rs.38,00,000/- towards the construction. At this stage, they agreed to proceed with further construction with the third party and the petitioners herein agreed to pay a sum of Rs.38,00,000/-. As the same has not been paid, the present F.I.R. has been filed.

3. The learned Counsel for the petitioner submits that, in fact, there is an agreement between the defacto complainant, petitioners and the third party constructor, wherein they specifically agreed that third party constructor Mr.Ravi agreed to pay the amount which has already been paid by the defacto complainant. Further, the suit has also been filed which is pending and the entire allegations do not constitute any of the criminal offence. It is only for recovery of the alleged amount spent by the petitioners. Hence, sought to quash the F.I.R.

4. I perused the F.I.R. and the disputed agreement. The same clearly shows that the defacto complainant has invested certain amount to construct the houses for the first petitioner herein. As he could not proceed further in the construction, a tri-party agreement was entered with third party and he has agreed to continue the construction and in fact he has agreed to pay the sum of Rs.38,00,000/- to the defacto complainant. Now, the F.I.R. has been filed as if these petitioners have agreed to pay the said amount, whereas, the agreement signed by the defacto complainant itself clearly indicate that only the third party has to pay the said sum of Rs.38,00,000/-. The entire grievance is with regard to non payment of amount by the third party. As the dispute relates to the recovery of money and there is no allegation of criminal intent has been made out, continuation of investigation is nothing but a futile exercise. Hence, the F.I.R. is liable to be quashed.

5. Accordingly, this Criminal Original Petition is allowed and F.I.R. in crime No.144 of 2018, on the file of the Sub Inspector of Police, Kovilpalayam Police Station, Coimbatore



filed against the petitioners for the offences punishable under Sections 120B, 406, 420 and 506(i) of I.P.C. is quashed. Consequently, connected miscellaneous petition is quashed.

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Sd/-
Assistant Registrar(CS-VII)

//True Copy//

Sub Assistant Registrar

vrc / kbs

To

1. The Sub Inspector of Police,
Kovilpalayam Police Station,
Coimbatore.
2. The Public Prosecutor,
High Court, Madras.

+1cc to M/s.Elizabeth Ravi, Advocate, S.R.No.5580

Crl.O.P.No.18396 of 2018 &
Crl.M.P.No.9667 of 2018

PMK(CO)
RLP(10/02/2022)