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CRL.O.P.No.14971 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 28.04.2022

PRONOUNCED ON : 06.10.2022

CORAM:

THE HONOURABLE MR. JUSTICE SATHI KUMAR SUKUMARA KURUP

Crl.O.P.No.14971 of 2019

and

Crl.M.P.No.7342 of 2019

R.Srinivasan : Petitioner/Accused – 1

Vs

1.The State, represented by its
Inspector of Police,
Puliampatti Police Station,
Puliampatti,
Erode District.

: Respondent/Complainant

2.M.M.Rangasamy : Respondent/De-facto Complainant

Prayer: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, seeking to call for the records relating to the case in Crime No.164 of 2019 on the file of the first Respondent and quash the same as against the Petitioner/A1 by allowing this Criminal Original Petition.

For Petitioner : Mr.V.Subramanian
for M/s.Dass and Viswa Associates



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For Respondent 1 : Mr.S.Vinoth Kumar
Government Advocate (Crl. Side)
For Respondent 2 : Mr.R.Sankarasubbu

ORDER

This Criminal Original Petition had been filed seeking to quash the First Information Report in Crime No.164 of 2019 on the file of the Inspector of Police, Puliampatti Police Station, Puliampatti, Erode District/first Respondent herein.

2.It is the contention of the learned Counsel for the Petitioner that the Petitioner had purchased the property measuring to an extent of 96½ cents in Nallur Village, Sathyamangalam Taluk, Erode District in Survey Nos.187/6 and 187/10B vide registered sale deed in Doc. No.1157 of 2010, dated 11.03.2010. Since the Petitioner had invested the entire share in the business which he had received from his father out of sale of his family property and thereafter, he was in need of further money, he has received a loan amount to the tune of Rs.1,00,000/- from one Mr.Rangasamy/second Respondent in this Petition. Likewise the Petitioner had approached one Mr.Arockiasamy who is also a financier who had on the basis of the document financed the motor



vehicle. At the time of lending loan, apart from a General Power of Attorney, in respect of the aforesaid property, the said Arockiasamy obtained four unfilled promissory notes, two filled promissory notes and obtained signature in four empty papers and non-judicial stamp papers from the Petitioner. While so, when the Petitioner was in a position to settle the loan to Arockiasamy, the Petitioner called upon Arockiasamy and requested to get back the loan amount and to cancel the Power of of Attorney. The said Arokiasamy evaded phone calls. The Petitioner applied for encumbrance certificate wherein he came to know that the said Arokiasamy executed a sale deed to and in favour of his wife on the basis of the General Power of Attorney without the knowledge of the Principal. Therefore, the Petitioner approached Arokiasamy in person and questioned him. The said Arockiasamy threatened the Petitioner that he should not disturb him. The said fact was informed to the second Respondent. The second Respondent advised the Petitioner to lodge a complaint before the Police and accordingly, the Petitioner lodged a complaint before the Inspector General of Police, West Zone, Coimbatore, on 23.08.2011 and the same was forwarded to the Land Grabbing Cell, Erode District where the Petitioner was given receipt vide Receipt No.1106/2011 but no action was taken. Therefore, the Petitioner had lodged private complaint. In the meanwhile, on the strength of the sale agreement dated 10.05.2010 the second Respondent had filed a suit



in O.S.No.21 of 2012 before the learned Sub Judge, Sathyamangalam and obtained a decree, despite the Petitioner's request to get back the principal amount and cancel the sale agreement. On the other hand, Arokiyasamy had given a complaint with false and frivolous allegation in Crime No.270 of 2017, dated 16.09.2017 for the offence under Section 447, 379 (Non purposal) on the file of the first Respondent Police. Apart from that, another case in Crime No.57 of 2018 dated 11.02.2018 was also registered by the first Respondent Police based on the complaint of Arokiyasamy for the offences alleged under Section 120B, 420, 465, 466, 467, 468, 471 and 109 of IPC. To the surprise of the Petitioner herein, the second Respondent and the said Arokiyasamy grabbed the Petitioner's property which is worth about more than One Crore rupees. On the other hand, the second Respondent with a false and frivolous complaint managed to register a case in Crime No.164 of 2019 for the offences under Sections 294(b), 447, 506(ii) of IPC on the file of the first Respondent Police after 8 years. Therefore, the Petitioner seeks to quash the FIR in Crime No.164 of 2019 on the file of the first Respondent.

3.The learned Counsel further submitted that from the complaint, it is clear that there was a civil suit pending between the Petitioner and the De-facto Complainant. Therefore, it is nothing but clear abuse of process of court.



When the Petitioner entered into a sale agreement with the second Respondent for sale consideration of Rs.1.5 lakhs, there is no necessity for the Petitioner to enter into a sale agreement with Arockiasamy for sale consideration of Rs.1,00,000/-. The Petitioner had obtained only a loan of Rs.1,00,000/- (Rupees One Lakh only) from the second Respondent and Rs.1.5 lakhs from Arockiasamy by executing a formal sale agreement and General Power of Attorney with the second Respondent. While so, both of them with evil intention to grab the property worth about Rs.1.5 crores from the Petitioner had obtained sale deed in their favour. Now they are making false complaint against the Petitioner. The fact of execution of General Power of Attorney in favour of A2/Arockiasamy and sale deed in favour of A3/Baby Arockiasamy was as early as in the year 2010 and 2011 respectively. Hence, there is no necessity for the Petitioner to collude with A2, A3 and create document to cheat the second Respondent. Therefore, the Criminal Complaint filed by the second Respondent is nothing but abuse of process of Court. Hence, the Petitioner seeks to quash the Criminal Complaint in Crime No.164 of 2019 on the file of the first Respondent.

4.It is also the submission of the learned Counsel for Petitioner that the De-facto complainant himself admitted that he had withdrawn the previous



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private complaint in CrI.M.P.No.1546 of 2018 before the learned Judicial Magistrate, Sathyamangalam without proper reason and filed another private complaint in C.C.No.925 of 2019 and obtained order within a month which itself is not maintainable. Based on the order in C.C.No.925 of 2019, the present FIR in Crime No.164 of 2019 was filed which is nothing but abuse of process of Court. The Petitioner had obtained loan of Rs.1.5 Lakhs from Arockiasamy and Rs.1,00,000/- from the second Respondent/Rangasamy. On such borrowal, General Power of Attorney was also executed in favour of the second Respondent and Arockiasamy. There was no intention for the Petitioner to sell the property. Those document was executed at the instance of the second Respondent and the said Arockiasamy for the purpose of security to repay the loan. The property is worth about Rs.1.5 Crores which was grabbed by the second Respondent and Arockiasamy. Therefore, the learned Counsel for the Petitioner submitted that this is a case filed with ulterior motive to harass the Petitioner/Srinivasan which is an abuse of process of Court. Therefore, he prayed this Court to quash the FIR in Crime No.164 of 2019 on the file of the first Respondent.

5.The learned Counsel for the second Respondent Mr.R.Sankarasubbu vehemently objected to the submission of the learned Counsel for the



Petitioner stating that what are all argued by the learned Counsel for the Petitioner shall be considered only during trial before the learned trial Judge while adducing evidence. This Court exercising power under Section 482 of Cr.P.C. cannot go into the evidence. Therefore, this Petition lacks merit and the same has to be dismissed with direction to the first respondent to investigate the matter and file a final report.

6.The learned Government Advocate (Crl. Side) Mr.R.Vinoth Kumar also vehemently objected to quash the FIR stating that only when the investigation proceeds the Investigation Officer will be able to collect materials. If there are no materials incriminating the Petitioner, the Investigation Officer himself or herself will drop the investigation and file referred charge sheet before the Court concerned. It is not for this Court to exercise the power under Section 482 of Cr.P.C. to quash the FIR at this stage. The learned Government Advocate (Crl. Side) submitted that this Petition may be dismissed with a direction to the Investigation Officer to proceed with the investigation.

7.On perusal of the typed set of papers filed along with the Petition, it is found that the parties herein had already agitated their rights in the civil suit.



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Therefore, in the light of the civil suit, a criminal case having been lodged by the second Respondent with the first respondent who had taken on file and registered FIR in Crime No.164 of 2019 is found to be an attempt by the Second Respondent to harass the Petitioner which is nothing but abuse of process of Court.

8.Further, on consideration of the the reliance placed on by the learned Counsel for the Petitioners in the connected case in Crl.O.P.No.16089 of 2019 Mr.M.Guruprasad in the reported ruling of the Hon'ble Supreme Court in ***(1998) 2 SCC 493 [Sachidanand Singh -vs- State of Bihar]*** wherein it is observed that when the forgery is alleged to have taken place in a subject matter pending before the Court and the Court comes to the conclusion that party to the civil litigation had filed a forged document in support of his/her contention which was found out in due course of trial by the Civil Court, after conclusion of the trial, on the direction of the Civil Court only, a case can be registered by the official of the Court on behalf of the Court. Therefore, the Complaint preferred at the instance of the party to the civil proceedings before ever the Court comes to the conclusion that the document was presented before the Civil Court by the party to the civil proceedings and before ever the Civil Court arrives at a decision that the document marked and relied by the



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party to the civil dispute was a forged document, there cannot be a complaint at the instance of the said party. Here, there are civil litigations pending against each other. While so, till the civil litigation ends in finality, there cannot be an FIR or a private complaint for the offences alleged regarding forgery of a document filed before the Civil Court. In such circumstances, the objection by the learned Government Advocate (Crl. Side) that the FIR cannot be quashed in the light of the reported ruling of the Hon'ble Supreme Court in *State of Haryana -vs- Bhajan Lal* reported in *1992 Suppl.(1) SCC 335* will not help the prosecution. On the other hand, the ruling placed by the learned Counsel for the Petitioners in the connected case in Crl.O.P.No.16089 of 2019 in *(1998) 2 SCC 493 [Sachidanand Singh -vs- State of Bihar]* is applicable to the facts and circumstances of the case. Under these circumstances, the registration of FIR against the Petitioners herein in Crime No.164 of 2019 is found to be abuse of process of Court. The arguments of the learned Government Advocate (Crl. Side) and the learned Counsel for the second Respondent Mr.R.Sankarasubbu are rejected. Therefore, the registration of FIR in Crime No.164 of 2019 is liable to be quashed.

In the result, this Criminal Original Petition is Allowed.



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The First Information Report in Crime No.164 of 2019 on the file of the

first Respondent/the Inspector of Police, Puliampatti Police Station, Puliampatti, Erode District is quashed. Consequently, the connected miscellaneous petition is closed.

06.10.2022

SRM

Index: Yes/No

Internet: Yes/No

To:

1.The Inspector of Police,
Puliampatti Police Station,
Puliampatti,
Erode District

2.The Public Prosecutor,
High Court, Chennai.



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SATHI KUMAR SUKUMARA KURUP,J.,

SRM

Order made in
Crl.O.P.No.14971 of 2019

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