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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.04.2022

CORAM

THE HON'BLE MR.JUSTICE SATHI KUMAR SUKUMARA KURUP

Crl.O.P.No.16473 of 2019

and

Crl.M.P.No.8270 of 2019

1.R.Satheesh Kumar
2.R.Jagadeesh Kumar
3.S.P.Ramasamy

... Petitioners

Versus

1.The State by Rep by its,
The Inspector of Police,
District Crime Branch,
Coimbatore.
(Crime No.38 of 2018)

2.N.Narasiman

... Respondents

Prayer: This Criminal Original Petition has been filed under Section 482 of Criminal Procedure Code to call for the records in Crime No.38 of 2018 on the file of the 1st respondent police and quash the same.

For Petitioners: Mr.K.Myilsamy
For R1 : Mr.R.Vinothraja
Government Advocate (Crl.Side)

For R2 : Mr.C.Arunkumar

ORDER

This Criminal Original Petition has been filed seeking to quash the FIR in Crime No.38 of 2018 on the file of the 1st respondent police.

2. The learned Counsel for the Petitioner submitted that the subject matter of the FIR is a civil dispute between the informant of the FIR and the accused. Further, he submitted that the subject matter arose out of the power of attorney, which was executed by the petitioners in favour of the second respondent. Subsequently, it was cancelled. Therefore, no interest was



attached to the power of attorney deed. While executing the power of attorney deed, no interest was attached to the property, it is coupled with interest and he refers to Page No.4 of the typed set of papers.

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3. Further, he would submit that based on the said dispute, a suit was preferred before the District Court, Coimbatore. While things stood at that with the registration of the FIR, it found to be a civil dispute having been converted into a criminal case. Therefore, he seeks to quash the FIR.

4. The learned counsel for the Petitioner invited the attention of this Court to the order granting bail by the learned Judicial Magistrate No.VI, Coimbatore, wherein it was observed that this is a dispute which is purely of a civil nature. He also submitted that after the cancellation of power of attorney, he had intimated the same to the second respondent.

5. The learned Counsel for the second Respondent/defacto complainant submits that the submissions of the learned Counsel for the Petitioner cannot at all be accepted in the light of the averments in the complaint/FIR and submitted that the submissions of the learned counsel for the petitioner cannot be accepted, if the submissions of the learned counsel for the petitioner is accepted and FIR is quashed, it amounts to violation of the guidelines laid by the Hon'ble Supreme Court in the case of State of Haryana Vs. Bhajan Lal.

6. The learned Government Advocate (Crl.Side) for the first Respondent also vehemently objects to line of the arguments put forth by the learned Counsel for the Petitioner. After the cheques were issued by the second Respondent, the Accused herein where the father and sons, who had encashed the amount. After acknowledging the amount, the power of attorney was executed in favour of the second Respondent, was unilaterally cancelled. Therefore, it amounts to cheating attracting the ingredients of Section 420 of IPC. The learned Government Advocate (Crl.Side) also objects to the line of the arguments stating that the power vested in this Court under Section 482 cannot be exercised in matters of this kind and relies on the guidelines issued by the Hon'ble Supreme Court in the case of State of Haryana Vs. Bhajan Lal.

7. Considering the rival submissions and on perusal of the typed set of papers, the submissions of the learned Counsel for



the second Respondent/Complainant is found acceptable and reasonable. In the light of the judgment of the Hon'ble Supreme Court regarding exercising of the discretion under Section 482 of Cr.P.C., if this petition is allowed and FIR is quashed, which amounts to violation of the guidelines issued by the Hon'ble Supreme Court to High Courts in exercising discretion under Section 482 of Cr.P.C. Therefore, this is not a fit case for quashing FIR. What are all the arguments made by the learned Counsel for the Petitioner can at best be used as a valuable defence at the time of trial. The final report is filed after collecting the materials. Therefore, the Investigation Officer is directed to lay the final report within a reasonable time.

8. With the above observation and direction, this Criminal Original Petition is dismissed. Consequently, connected Criminal Miscellaneous Petition is closed.

SD/-
ASSISTANT REGISTRAR

// TRUE COPY //

SUB ASSISTANT REGISTRAR

sp

To

1.The Judicial Magistrate No.VI,
Coimbatore.

2.The Inspector of Police,
District Crime Branch, Coimbatore.

3.The Public Prosecutor,
Madras High Court, Chennai.

+1cc to Mr.C.Arunkumar, Advocate Sr.25832

+1cc to Mr.K.Myilsamy, Advocate Sr.26179

+1cc to Mr.K.Myilsamy, Advocate Sr.26177

[09/06/2022]

CrI.O.P.No.16473 of 2019
and
CrI.M.P.No.8270 of 2019

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