



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.01.2022

CORAM :

THE HONOURABLE MR.JUSTICE V.BHARATHIDASAN

CRL.O.P.NO.28523 OF 2014

AND

CRL.M.P.NOS.1 & 2 OF 2014

1.O.Mohammed Thaemimul Ansari Maricar

2.O.Umar Farook

...Petitioners / A1 & A2

Vs.

Iyashath Begum

...Respondent / Petitioner

Prayer : Criminal Original Petition filed under Section 482 of Cr.P.C., seeking to quash the complaint in C.C.No.233 of 2009 on the file of the learned Judicial Magistrate No.II, Karaikal.

For Petitioners : Mr.S.Sounthar

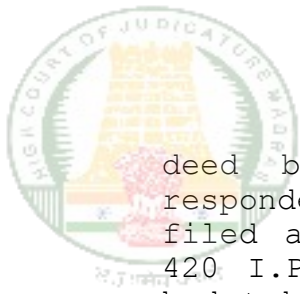
For Respondent : Mr.K.M.Aasim Shahzad
for BFS Legal

O R D E R

This criminal original petition has been filed seeking to quash the private complaint filed by the respondent/complainant for offence under Section 420 I.P.C. against the petitioners/A1 & A2 in C.C.No.233 of 2009 on the file of the learned Judicial Magistrate - II, Karaikal.

2. The case of the respondent/complainant is that the petitioners/A1 and A2 and the respondent/complainant are co-owners of a property. On 18.04.2006, the petitioners have entered into a sale agreement in respect of their share in the said property to the respondent/complainant, which was also duly registered. Out of the total sale consideration of Rs.1,50,000/- part of the sale consideration of Rs.50,000/- has been paid by the respondent/complainant to the petitioners/A1 & A2.

3. After the agreement period was over, both the accused settled their share in the property in the name of their mother without the knowledge of the respondent/complainant. The respondent also approached the petitioners to execute a sale



deed but they refused. In the said circumstances, the respondent alleging that both the petitioners have cheated her filed a private complaint for offence punishable under Section 420 I.P.C. and the learned Judicial Magistrate - II, Karaikal had taken cognizance and issued process. To quash the same, the petitioners/A1 and A2 are before this Court with this petition.

4. I have heard the learned counsel on either side and also perused the records carefully.

5. Perusal of the complaint and other materials clearly shows that there is a civil dispute between the parties. The allegation is that after entering into a sale agreement and receipt of part of sale consideration, after expiry of the agreement period, both the petitioners/A1 and A2 have executed a settlement deed in favour of their mother.

6. From the materials available on record it could be seen that the agreement was executed on 18.04.2006 and the parties agreed to execute the sale deed within a period of three months. Admittedly, the alleged settlement deed was executed on 11.08.2006, after expiry of three months and thereafter the present complaint has been filed after three years. If at all the petitioners failed to execute the sale deed pursuant to the sale agreement, it only give raise to a civil dispute and the respondent/complainant can approach a civil Court and get suitable relief, at any rate it does not give raise to an criminal offence under Section 420 I.P.C. as the intention of cheating from the date of creation of sale agreement is totally absent. In these circumstance, continuing the criminal case is only an abuse of process of law and therefore, the criminal proceedings in C.C.No.233 of 2009 pending on the file of the learned Judicial Magistrate No.II, Karaikal, is liable to be quashed and accordingly the same is quashed.

7. In the result, this criminal original petition is allowed. Consequently, the connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CS-IX)

// True Copy //

Sub Assistant Registrar

kk

To

1.The Judicial Magistrate No.II,
Karaikal.



2.(do through) The Chief Judicial Magistrate,
Puducherry.

+1cc to Mr.S.Sounthar, Advocate Sr.No.5378

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Crl.O.P.No.28523 of 2014
and Crl.M.P.Nos.1 & 2 of 2014

SRA (CO)
RVM(14/02/2022)