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Crl.O.P.No.21158 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.07.2022

CORAM:

THE HON'BLE MR.JUSTICE G.K.ILANTHIRAIYAN

Crl.O.P.No.21158 of 2020

and

Crl.M.P.No.9007 of 2020

Muthamiz Selvi

... Petitioner

Vs.

1.The State Represented by
The Sub-Inspector of Police,
District Crime Branch,
Cuddalore District.
(Crime No.22 of 2020)

2.Murugan

... Respondents

Prayer: Criminal Original Petition filed under Section 482 of Criminal Procedure Code, to call for the records relating to FIR in Crime No.22 of 2020 on the file of the first respondent police and quash the same.

For Petitioner : Mr.C.Ravikumar

For R1 : Mr.A.Gopinath
Government Advocate (Crl.Side)

For R2 : No appearance



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ORDER

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This petition has been filed to quash the FIR registered in Crime No.22 of 2020 on the file of the first respondent police, for the offences under Sections 419, 420, 465, 468 and 471 of IPC as against the petitioner.

2. The case of the prosecution is that the defacto complainant is the brother-in-law of the petitioner. It is alleged that the petitioner created forged documents for the land which belongs to the defacto complainant and executed a sale deed in favour of her. It is also alleged that the petitioner threatened the defacto complainant and also cheated him. Hence, the complaint.

3. Heard Mr.C.Ravikumar, learned counsel appearing for the petitioner and Mr.A.Gopinath, learned Government Advocate (Crl.Side) appearing for the first respondent. Though notice was served to the second respondent, today no one appeared on behalf of the second respondent before this Court in person or through pleader.

4. It is seen that the petitioner is a sole accused. The defacto



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complainant is none other than the own brother-in-law of the petitioner.

The petitioner entered into an Agreement of Sale to purchase the property belong to the second respondent for the total sale consideration of Rs.5.5 Lakhs and paid a sum of Rs.2 lakhs as advance on the date of agreement of sale viz, 15.05.2020. However, the second respondent did not come forward to execute the Sale Deed in favour of the petitioner, the petitioner caused legal notice and also filed a Suit for specific performance in O.S.No.222 of 2020 on the file of the learned Sub-Court, Chidambaram.

5. On receipt of the summons, the second respondent lodged the present complaint. If at all any forgery committed by the petitioner, it has to be investigated only after expert opinion in respect of the forged signature. The petitioner has now filed a suit for specific performance and it is pending before the Sub-Court, Chidambaram. Therefore, the second respondent ought to have filed a petition before the Civil Court for getting expert opinion. If any opinion with regards to forged signature of the petitioner is found, the second respondent can very well constitute a criminal proceedings.

6. Therefore, there is no ingredients to attract the offences



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under Sections 419, 420, 465, 468 and 471 of IPC. When the Civil Suit is pending before the Sub-Court, Chidambaram and on receipt of the summons, the second respondent lodged a complaint alleging that the agreement produced by the petitioner in the suit is a forged document and the very substratum of the criminal complaint vanishes, since, the same dispute between the parties is pending before the Civil Court. Therefore, the present FIR is nothing but a clear abuse of process of law and only to wreak vengeance as against the petitioner.

7. In this regard, it is relevant to extract the judgement reported in **(1992) SCC Crl. 426** in the case of **Bajanlal v. State of Haryana**, wherein the Hon'ble Supreme Court of India has listed out the following category of case in which the criminal proceedings can be quashed using the inherent jurisdiction of the High Court under Section 482 Cr.P.C.:

"102.....

.....

7. Where a criminal proceeding is manifestly attended with malafide and/or where the proceedings is maliciously instituted with an ulterior motive for wrecking vengeance on the accused and



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with a view to spite him due to private and personal grudge."

Therefore, the impugned complaint is nothing but a clear abuse of process of law and it cannot be sustained as against the petitioner.

8. Accordingly, the FIR registered in Crime No.22 of 2020 on the file of the first respondent police, is hereby quashed. Accordingly, this Criminal Original Petition stands allowed. Consequently, connected Miscellaneous petition is closed.

05.07.2022

Internet : Yes / No
Index : Yes / No
Speaking / Non Speaking order
cda/mn

G.K.ILANTHIRAIYAN, J.

mn



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To
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- 1.The Sub-Court, Chidambaram.
- 2.The Sub-Inspector of Police,
District Crime Branch,
Cuddalore District.
- 3.The Public Prosecutor,
High Court, Madras.

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