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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 6/1/2022

CORAM

THE HONOURABLE MR.JUSTICE N. SATHISH KUMAR

CrI. O.P. No.29017 of 2017
and
CrI.M.P.Nos.16368 and 16369 of 2017

1. C.S.Chandra
 2. C.S.Sankar ... Petitioners / Accused 1 & 2
- Vs

1. State
rep. By The Inspector of Police
Central Crime Branch
EDF III, Team XXI
Chennai.

2. R. Maragathamani ... Respondents/ Complainants

PRAYER : Criminal Original Petition filed under Section 482 Cr.P.C., to call for the records relating to the charge sheet filed by the first respondent in C.C.No.230 of 2017 on the file of the Judicial Magistrate No.1, Poonamallee and quash the same.

For Petitioners ... Mr.S.Kumara Devan

For Respondents ... Mr.S.Vinoth Kumar
Government Advocate
(Criminal Side)
for R.1

Mrs.G.Daisy John
for R.2.

ORDER

This Criminal Original Petition has been filed to quash the final report filed, for the offence punishable under Sections 406, 420, 506 (i) of the Indian Penal Code @ 406, 420 r/w. Section 34 of the Indian Penal Code.

2. The crux of the final report is that the accused made a



false representation to the defacto complainant that 18 feet road is available to the land which is going to be purchased by him. Only on such representation, the defacto complainant parted with Rs.68 lakhs. At a later point of time, it came to know that there is no such 18 feet road is available, thereby, the accused cheated the defacto complainant.

3. Heard the learned counsel appearing on either side and perused the materials available on record.

4. The allegations indicate that as if there was a deception played by the petitioners, which requires trial. It is brought to the notice of this Court that the defacto complainant had lodged a similar complaint against the petitioners, for the offences punishable under Sections 28, 406 and 420 of IPC @ 120 (b), 119, 465, 467, 468, 471 and 420 of the Indian Penal Code and the same was taken on file in C.C.No.166 of 2017, on the file of the learned Judicial Magistrate No.1, Poonamallee.

5. The defacto complainant and two others have filed CrI.O.P.No.2540 of 2018, to quash C.C.No.166 of 2017, pending on the file of the learned Judicial Magistrate No.1, Poonamallee. This Court, vide, order, dated 8/7/2021, has directed the Court below to complete the Proceedings in C.C.No.166 of 2017, within a period of three months from the date of the said order.

6. As the case and counter cases have been filed in respect of the same facts in nature, this Court is of the view that as earlier complaint was already disposed of, both the final report requires appreciation of evidence and this Court, cannot decide the same in exercise of its jurisdiction under Section 482 of the Code of Criminal Procedure. This Court is not inclined to interfere with the proceeding pending before the Court below.

7. In the result, this Criminal Original Petition is dismissed.

8. At this stage, the learned counsel appearing for the petitioners requested this Court to dispense with the presence of the petitioners. Taking into consideration, the facts and circumstances of the case, the presence of the petitioners before the Trial Court is dispensed with except for receipt of copies, answering the charges, questioning under Section 313 Cr.P.C., or on any other date as may be required by the trial Court. They shall be represented by a counsel, who shall cross examine the witnesses on the same day, when they are examined in Chief.



Consequently, the connected Criminal Miscellaneous Petitions are closed.

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Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

mvs.

To

1. The Judicial Magistrate No.1, Poonamallee
2. The Inspector of Police
Central Crime Branch
EDF III, Team XXI
Chennai.
3. The Public Prosecutor,
High Court, Madras.

+1cc to Mr.S.Kumara Devan, Advocate, S.R.No.1176

+1cc to M/s.G.Daisy John, Advocate, S.R.No.1703

Cr1. O.P. No.29017 of 2017

NR(CO)
SB(24/01/2022)