



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 17.03.2022

CORAM

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

CRL.O.P (MD) No.1989 of 2022

and

CRL.M.P (MD) Nos.1452 and 1453 of 2022

WEB COPY

1.Ashok Kumar

2.Valambal

... Petitioners/Accused Nos.2 & 3

Vs

1.The State Rep. by

The Inspector of Police,
K.K.Nagar Police Station,
Trichy City.

... 1st Respondent / Complainant

2.Mohamadu Athusin

... 2nd Respondents / Defacto complainant

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C, praying to call for the records pertaining to the impugned proceedings in C.C.No.404 of 2020 pending on the file of the learned Judicial Magistrate No.II, Tiruchirappalli and quash the same.

For Petitioners : Mr.N.Karthik Kannan

For Respondents : Mr.B.Thanga Aravindh

Govt. Advocate (Crl. Side) for R1

Mr.H.Mohamed Imran for R2

O R D E R

This Criminal Original Petition has been filed to quash the proceedings in C.C.No.404 of 2020 on the file of the learned Judicial Magistrate No.II, Tiruchirappalli.

2.The case of the prosecution is that the first accused is said to introduced himself as a civil engineer to the defacto complainant and cheated him with regard the purchase of hardware materials (building materials) to the tune of Rs.18,00,000/-. The petitioners herein are none other than the brother and mother of the first accused.

3.Heard the learned counsel appearing on either side.

4.There are totally three accused in which, the petitioners are arrayed as Accused Nos.2 and 3. On a perusal of the charge sheet and the statement recorded under Section 161(3) of CrPC, revealed that there is absolutely no allegation as against the petitioners to attract the offences under Section 420 and 506(ii) of IPC. Even according to the prosecution, when the second respondent demanded payment from the first accused, the petitioners herein scolded him



and abused him in filthy language and not allowed him to enter into the house. As far as the offence under Section 420 of IPC is concerned, the petitioners are no way connected to the alleged purchase by the first accused from the defacto complainant. Because the agreement is entered only between the first accused and the second respondent with regard to the purchase of house building materials and the petitioners did not come in the picture in any where. Therefore, there is no ingredients to attract the aforesaid offence against the petitioners. The defacto complainant neither initiated any proceeding under Section 138 of Negotiable Instrument Act nor file a suit for recovery of money against the first accused. The petitioners are fairly stranger to the dispute between the defacto complainant and the first accused.

5.Insofar as the charge for the offence under Section 506(ii) of IPC is concerned, since the petitioners are being the brother and mother of the accused and in order to wreak vengeance against the family members, the petitioners are roped in. Looked at from any angle, the impugned FIR has been registered against the petitioners with mala fide intention.

6.In view of the above, this criminal original petition is allowed and the proceedings in C.C.No.404 of 2020 on the file of the learned Judicial Magistrate No.II, Tiruchirappalli, is quashed insofar as the petitioners alone. However, the trial Court is directed to complete the proceedings as against the first accused within a period of six months from the date of receipt of a copy of this order. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CS-I)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

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To

1.The Judicial Magistrate No.II, Tiruchirappalli.

2.The Inspector of Police,
K.K.Nagar Police Station, Trichy City.

3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

Order made in
CRL.O.P (MD) No.1989 of 2022
17.03.2022

nsn(CO)

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