



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 10.01.2022

CORAM:

THE HONOURABLE MR. JUSTICE G.R. SWAMINATHAN

Crl.O.P (MD)No.12027 of 2021

and

Crl.M.P. (MD)No.6166 of 2021

WEB COPY

N.R.Suresh @ Sureshbabu

... Petitioner/ Accused No.4

Vs

1.The Inspector of Police,
B-3Theppakulam Police Station,
Theppakulam,
Madurai.
(Crime No.79 of 2014)

...1st Respondent/Complainant

2.Kaliammal

...2nd Respondent/
Defacto Complainant

PRAYER: Petition filed under Section 482 Code of Criminal Procedure, to call for the records pertaining to the First Information Report in Crime No.79 of 2014 on the file of the first respondent police insofar as the petitioner / fourth accused is concerned and quash the same.

For Petitioners	: Mr.V.Vishnu
For R1	: Mr.B.Thanga Aravindh Government Advocate (Crl.side)
For R2	: Mr.G.Vidhyamaheswaran

ORDER

This Criminal Original Petition has been filed to quash the impugned FIR.

2. Crime No.79 of 2014 was registered based on the information lodged by the second respondent herein.

3. The case of the defacto complainant is that she had been residing in the property in question right from 1961 onwards. Her husband passed away in the year 1992. Following his demise, the first accused Pitchaithevar who was the friend of the defacto complainant is said to have given some false assurance to her. The specific stand of the defacto complainant is that she had parted with a sum of Rs.17,000/- and also some gold jewellery to the first accused. However, the first accused did not obtain any sale deed in her favour. Instead, he had obtained a sale deed from the fourth accused / petitioner herein. In the said sale deed, the son of the first accused had signed as witness.



4. When the matter was taken up for hearing, the learned Government Advocate (crl.side) submitted that final report has already been filed on 01.10.2021. FIR is of the year 2014. The quash petition was filed in August 2021. Immediately after getting notice in the quash petition, the prosecution appears to have hurriedly filed the final report. Filing of the final report during the pendency of the quash petition will not render this quash petition as infructuous. It is always open to the Court to find out if any case has been made out against the petitioner.

5. After a careful consideration of the entire materials on record, I am satisfied that no case has been made out against the petitioner herein. The primary allegations of the defacto complainant are only against the first accused Pitchaithevar. I do not want to consider the case on merits as regards the accused 2 and 3 as they are not before this Court. It is only the fourth accused who has come before this Court. The fourth accused has only executed the sale deed in favour of the first accused. There has been no transaction between the defacto complainant and the petitioner. None of the ingredients of any of the offences mentioned in the final report are made out against the petitioner herein. The jurisdictional Magistrate is directed to take a call in the matter on merits and in accordance with law as regards the other accused within a period of four weeks. If the court below decides to take cognizance, the petitioner will not be shown as an accused. However, the petitioner undertakes to appear before the court below and depose as a witness if called for to do so.

6. This Criminal Original Petition is allowed accordingly as far as the petitioner is concerned. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

rmi

Note:

In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.



To

1.The Inspector of Police,
B-3Theppakulam Police Station,
Theppakulam,
Madurai.

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

Copy to

The Registrar Judicial,
Madurai Bench of Madras High Court, Madurai.

+1 CC to M/s.G.VIDHYA MAHESWARAN, Advocate (SR-1074[F] dated
10/01/2022)

CrI.O.P (MD) No.12027 of 2021
10.01.2022

BK (CO)
KB (01.02.2022) 3P 5C