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Crl OP No.15481 / 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.06.2023

CORAM :

THE HONOURABLE MR. JUSTICE SUNDER MOHAN

Crl.O.P.No.15481 of 2021 and
Crl.M.P.No.8458 of 2021

1.M.Balamurugan

2.Jayalakshmi

...Petitioners/Accused

Versus

1. The State,
Represented by Inspector of Police,
Erode North Police Station,
Erode.

2. Padmavathi

...Respondents

PRAYER : Criminal Original Petition filed under Section 482 of the Criminal Procedure Code seeking to call for the records of the proceedings in FIR in Crime No.434 of 2021 on the file of the first respondent police, and to quash the same.

For Petitioners : Mr.Harikrishnan.R

For R1 : Mr. A.Damodaran
Additional Public Prosecutor

For R2 : No Appearance



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ORDER

The petition is to quash the FIR for the alleged offences under Sections 342, 379, 380, 506(2), 406 and 420 of the Indian Penal Code.

2. The dispute is between the mother and son. The petitioner/accused is son of the defacto complainant/second respondent.

3. Mr.R.Harikrishnan, the learned counsel for the petitioners submitted that the mother under the advice of her other son namely Mr.M.Sasikumar, who is the younger brother of the first petitioner/Mr.M.Balamurugan, had lodged this FIR, which is false; that the defacto complainant is aware of the fact that the property was settled in favour of the first petitioner by his father; that since the second respondent is acting under the instructions of her other son/Mr.M.Sasikumar, the impugned prosecution is clearly an abuse of process of law and contrary to the terms of the registered settlement deed executed by his father; that the defacto complainant after lodging the FIR is not interested in pursuing the FIR and hence, she had chosen not to enter appearance inspite of service of notice.



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4. Heard Mr.A.Damodaran, the learned Additional Public Prosecutor for the first respondent.

5. Though notice was served on the second respondent, none has entered appearance on behalf of her.

6. This Court finds force in the submission made by the learned counsel for the petitioners that a settlement deed was executed by the father of the first petitioner in his favour. The dispute is between the defacto complainant and the petitioner's brother on the one hand and the petitioner on the other hand. The defacto complainant has chosen not to enter appearance inspite of service of notice. However, this Court is of the view, that it is a desirable that the first respondent conducts an investigation and conclude it within a reasonable time. The first respondent may ascertain if the defacto complainant is interested in pursuing the complaint and conduct the investigation in a fair manner and conclude it within a period of four (4) weeks from the date of receipt of a copy of this order.



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7. With the above observations, this Criminal Original petition is dismissed. Consequently, the connected Miscellaneous Petition is closed.

27.06.2023

dk

Index: Yes/No

Speaking Order / Non-Speaking Order

Neutral Citation: Yes / No

To

1.The Inspector of Police,
Erode North Police Station,
Erode.

2.The Public Prosecutor,
High Court of Madras,
Chennai – 600 104.



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SUNDER MOHAN, J

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