



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 13.10.2023

CORAM:

THE HONOURABLE **MR. JUSTICE K.K.RAMAKRISHNAN**

CrI.O.P.(MD) No.6234 of 2021

and

CrI.M.P(MD) No.3575 of 2021

1. S.Vennila

2. Reena Priya

3. D.Madhavan

4. T.Raja

... Petitioners/Accused No.1 to 4

Vs.

1.The State Rep. by

The Sub Inspector of Police,

Papanasam Police Station,

Thanjavur District.

(Crime No.121 of 2021)

... 1st Respondent/Complainant

2.Chithra

... 2nd Respondent/Defacto Complainant



PRAYER: Criminal Original Petition filed under Section 482 Cr.P.C. praying to quash the FIR in Crime No.121 of 2021 dated 09.04.2021 pending on the file of the 1st respondent police station in so far as the petitioners are concerned.

For Petitioners : Mr.M.Karthikeya Venkitachalapathy

For Respondents : Mr.M.Muthumanikkam,
Government Advocate for R1
: No Appearance for R2

ORDER

This petition has been filed seeking quashment of FIR in Crime No.121 of 2021, dated 09.04.2021 pending on the file of the first respondent police.

2. The petitioners are the accused in Crime No.121 of 2021. The defacto complainant namely the second respondent is the owner of the plot situated at No.24, Manthiya Nagar Extension, Arayapurram Village, Papanasam Town Panchayat. Thanjavur District. The petitioners 1 and 2 entered into sale agreement with the defacto complainant namely the second respondent on 16.12.2016. Thereafter, the defacto complainant filed a complaint before the respondent police stating that the petitioners



colluded together and entered into sale agreement for borrowal of Rs.5,52,000/-. According to the second respondent, the petitioners entered into sale agreement by force. Hence, she preferred a complaint before the jurisdictional police and the same was not taken on file. Hence, she preferred a complaint under Section 156 (3) of Cr.P.C., before the learned District Munsif cum Judicial Magistrate, Papanasam and the same was forwarded to the respondent police. Upon receipt of the direction from the Court, FIR in Crime No.121 of 2021 was registered for the offences under Sections 417, 420 and 468 of IPC.

3. Challenging the same, the petitioners filed this quash petition.

4. The learned counsel for the petitioners submitted that the perusal of the FIR reveals that the civil transaction has been given a criminal colour. All the averments even if taken as true, it makes out only a civil dispute.

5. The learned counsel for the petitioners further submitted that they filed a suit for specific performance in O.S.No.293 of 2020 before the Sub Court, Kumbakonam, on the basis of the sale agreement dated 16.12.2016 and the same was contested by the second respondent. It was



allowed by the order dated 03.07.2023. In the said circumstances, the initiation of FIR is clear abuse of process of law. Hence, he seeks for dismissal of this petition.

6. The learned Government Advocate (Crl.Side) appearing for the State on instructions, submitted that the investigation is almost over and final report is not yet filed.

7. Even though, notice was served, there is no representation on behalf of the second respondent.

8. This Court perused the record and also considered the submission made by the learned counsel for the petitioners and the learned Government Advocate (Crl.Side).

9. Admittedly, on 16.12.2016, the second respondent entered into sale agreement with the petitioner. In the sale agreement, it is specifically stated that she agreed to sell the plot situated at No.24, Manthiya Nagar Extension, Arayapurram Village, Papanasam Town Panchayat, Thanjavur District, for the amount of Rs.5,52,000/-.



Thereafter, on 29.09.2020, the petitioners 1 and 2 filed a suit in O.S.No.293 of 2021 before the Sub Court, Kumbakonam, seeking relief for specific performance against the second respondent. After that, the second respondent made a complaint under Section 156 (3) of Cr.P.C., before the learned District Munsif cum Judicial Magistrate, Papanasam, based on which, the impugned FIR in Crime No.121 of 2021 was registered.

10. From reading the FIR, only allegation made against the petitioners is that they obtained the sale agreement as a security for the borrowal of Rs.5,52,000/-. The said plea of the second respondent is considered by the competent civil Court in O.S.No.293 of 2020 filed by the petitioner seeking the relief of specific performance and held that the sale agreement is true one. The document produced by the petitioners' counsel namely the sale agreement, plaint, written statement, judgment in O.S.No.293 of 2020, clearly demonstrated that the sale agreement is true and there is no forgery or impersonation. In the said circumstances, necessary ingredients to constitute the offence under Section 417, 420 and 468 of IPC are not made out.



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11. As rightly pointed out by the learned counsel appearing for the petitioners the initiation of this proceedings itself is abuse of process of law. The agreement was made in the year 2016 and complaint was preferred in the year 2021. From the above sequence of events, it is clear that the second respondent filed this complaint by giving criminal colour to the civil dispute. In this aspect, it is relevant to extract the Paragraph No.13 of the Judgment of the Honourable Supreme Court in the case of ***Sarabjit Kaur v. State of Punjab*** reported in (2023) 5 SCC 360:

13.A breach of contract does not give rise to criminal prosecution for cheating unless fraudulent or dishonest intention is shown right at the beginning of the transaction. Merely on the allegation of failure to keep up promise will not be enough to initiate criminal proceedings. From the facts available on record, it is evident that Respondent 2 had improved his case ever since the first complaint was filed in which there were no allegations against the appellant rather it was only against the property dealers which was in subsequent complaints that the name of the appellant was mentioned. On the first complaint, the only request was for return of the amount paid by Respondent 2. When the offence was made out on the basis of the first complaint, the second complaint was



filed with improved version making allegations against the appellant as well which was not there in the earlier complaint. The entire idea seems to be to convert a civil dispute into criminal and put pressure on the appellant for return of the amount allegedly paid. The criminal courts are not meant to be used for settling scores or pressurise parties to settle civil disputes. Wherever ingredients of criminal offences are made out, criminal courts have to take cognizance. The complaint in question on the basis of which FIR was registered was filed nearly three years after the last date fixed for registration of the sale deed. Allowing the proceedings to continue would be an abuse of process of the court.

12. Hence, in the considered view of this Court, the second respondent filed this complaint to thwart the legitimate execution of the sale deed on the basis of the sale agreement, dated 16.12.2016 and continuation of this criminal proceedings is abuse of process of law. Therefore, this Court is inclined to quash the FIR in Crime No.121 of 2021, dated 09.04.2021.



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13. Accordingly, the FIR in Crime No.121 of 2021 dated 09.04.2021 pending on the file of the Sub Inspector of Police, Papanasam Police Station, Thanjavur District, is hereby quashed and the Criminal Original Petition is allowed. Consequently, the connected miscellaneous petition is closed.

13.10.2023

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
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To

1. The Sub Inspector of Police,
Papanasam Police Station,
Thanjavur District.
2. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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K.K.RAMAKRISHNAN, J.

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