



CrI.O.P.(MD)No.6583 of 2019

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 10.08.2023

CORAM

THE HON'BLE MR.JUSTICE P.DHANABAL

CrI.O.P.(MD)No.6583 of 2019
and
CrI.M.P.(MD)Nos.4372 & 4373 of 2019

1.G.Krishnamoorthy

2.K.Gopi

... Petitioners

Vs.

1.The State Rep by
The Inspector of Police,
District Crime Branch, Dindigul District.
(Crime No.12 of 2016)

2.Chandramohan

... Respondents

PRAYER : Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to call for the records pertaining to the charge sheet in C.C.No.427 of 2017 dated 11.08.2017 on the file of the learned Judicial Magistrate No.II, Dindigul and quash the same as illegal.

For Petitioners : Mr.K.Mahendran



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For R1 : Mr.M.Sakthi Kumar,
Government Advocate (Crl. Side)
For R2 : Mr.G.Prabhu Rajadurai

ORDER

This Criminal Original Petition has been filed to quash the charge sheet in C.C.No.427 of 2017 dated 11.08.2017 on the file of the learned Judicial Magistrate No.II, Dindigul.

2.According to the petitioners, the second respondent, who is none other than younger brother of the first petitioner, lodged a complaint before the first respondent police alleging that his ancestral properties and other properties purchased from the income derived from the ancestral properties are situated in Batlagundu and Paravai. In the properties situated in Batlagundu shops, house and lodge are functioning and for getting building plan approval for the above said properties from Batlagundu Selection Grade Panchayat, the first petitioner put the signature of the second respondent and thereby, cheated the second respondent as well as the Panchayat. He is running the lodge without any valid permission and building license. It is further alleged in the



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complaint that in the above said properties, the second respondent, his sisters and his brother's wife are having share. The mother of the second respondent during her life time orally instructed the first petitioner as he is the eldest member to maintain the family properties and credited the income in her account and after her life the legal heirs have to share the same equally. But the first petitioner, with a view to cheat them, created a joint business agreement wherein he put the signature of the second respondent and his mother and by the said documents, the first petitioner cheated them in many ways. Further, the first petitioner and his father-in-law have created forged will as if the male legal heirs alone entitled to get share in the family properties. After demise of his mother, when the second respondent and other legal heirs insisted the first petitioner to submit account details and their respective shares, he refused to give the same and the first petitioner, his son and the second petitioner threatened them with dire consequences.

3. Based on the above said complaint, the first respondent registered FIR in Cr.No.12 of 2016 for the offence under Sections 468, 506(i) IPC as against the petitioners herein and after investigation, filed



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final report before the learned Judicial Magistrate No.II, Dindigul and the same was taken on file in C.C.No.427 of 2017. In fact, the petitioners are innocents and they have not committed any offence as alleged in the complaint. There is civil suit for partition is pending between the parties. Under these circumstances, due to personal enmity, with a view to harass the petitioners, the second respondent has lodged various complaints before the police officials as well as various authorities. The present case is also one of such false complaint. The second respondent not only lodged this complaint, but also lodged complaints before the Dindigul and Samayanallur Police Station for the same set of allegations and totally three FIRs were registered as against the petitioners herein. On seeing of all FIR it will clearly reveal the second respondent's ill motive to show criminal colour for the civil dispute. Hence, the present charge sheet is liable to be quashed.

4.No counter was filed by the respondents.

5.The learned counsel appearing for the petitioners would contend that the petitioners and the second respondent are close relatives and there is family dispute with regard to the sharing of the properties and



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thereby, civil suit is pending between the parties. In the mean time, the second respondent filed this complaint as against the petitioners alleging that they have created forged will and obtained building plan approval. Based on the same FIR was registered Cr.No.12 of 2016 for the offence under Sections 468, 506(i) IPC and after investigation final report also filed in C.C.No.427 of 2017. Even according to the complaint, no offences are made out and allegations are bald allegations. The will was executed in the year 1996 and lodge was functioning from the year 1998 and now, in the year 2016, due to family dispute, the second respondent has given this false complaint and dispute is purely civil in nature. These petitioners have not committed any offence. Hence, the impugned charge sheet is liable to be quashed.

6.The learned counsel appearing for the second respondent would contend that there are specific allegations as against these petitioners. They have created forged will and also get building plan approval by forging the signature of the second respondent and they have cheated the second respondent as well as the Government. The allegations as against the petitioners are serious in nature and it is matter for trial. After



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elaborate trial only the real truth will come to light. At this stage, the charge sheet cannot be quashed and hence, this petition is liable to be dismissed.

7.The learned Government Advocate(Crl.side) appearing for the first respondent would contend that based on the complaint given by the second respondent, the first respondent registered FIR in Cr.No.12 of 2016 for the offence under Sections 468, 506(i) IPC and as per investigation, there are prima facie materials available to proceed with the case and thereby, they filed final report and the same was take cognizance by the learned Magistrate in C.C.No.427 of 2017. The offences are serious in nature and it is matter for trial. Hence, this petition is liable to be dismissed.

8.Heard both sides and perused the materials available in the records.

9.On perusal of records reveals that the second respondent lodged a complaint on 15.04.2016 alleging that the petitioners constructed a



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lodge by forging building plan approval and they also put the signature of the second respondent and other legal heirs in the building plan approval and they also put the signature of the second respondent in the partnership deed and they have created forged will. The petitioners were entrusted the accounts to maintain the properties. When the legal heirs asked about the accounts, the first petitioner refused to give accounts and threatened them dire consequences.

10. According to the final report, the alleged occurrence was taken place in the year 1998 and these accused created forged documents. When the same was questioned by the defacto complainant, the petitioners threatened him. There is a specific averment in the complaint that they are all in common possession and enjoyment of the properties as instructed by their mother. The first petitioner only maintained the accounts and properties. When they asked about the accounts, they threatened and thereby, this complaint came to be lodged.

11. On seeing the contentions of the complaint, the allegations with regard to the forged documents are not in specific and vague allegations.



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As per complaint, forged documents were created in the year 1998, but, the complaint was given in the year 2016. Even according to the defacto complainant, they also entrusted the properties to the first petitioner to maintain the accounts. If so, they know very well about the existence of the lodge and business from the year 1998. But they have not taken any steps and only after dispute arose between them with regard to the sharing of the properties, this complaint was given. It shows that there is civil dispute and admittedly, civil suit in O.S.No.32 of 2014 is pending between the parties. That apart, the so called forged documents have not been annexed in the complaint and the second respondent ought to have produced the so called forged documents and without those documents, cognizance cannot be taken. The investigating officer also failed to seize those documents and subjected for comparison of signatures through Forensic Laboratory.

12. Therefore, on careful reading of the complaint reveals that the complaint was given based on the civil dispute and the civil dispute has been given into criminal colour and it is clear abuse of process of law. Even according to the complaint, all the allegations are civil in nature and the same has to be decided by the civil Court and thereby, the



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impugned charge sheet is liable to be quashed. Accordingly, charge sheet in C.C.No.427 of 2017 pending on the file of the learned Judicial Magistrate No.II, Dindigul is quashed and this criminal original petition is allowed. Consequently, connected miscellaneous petitions are closed.

10.08.2023

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

- 1.The Judicial Magistrate No.II,
Dindigul.
- 2.The Inspector of Police,
District Crime Branch,
Dindigul District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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P. DHANABAL,J.

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