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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 03/03/2023

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The Hon'ble Mr.Justice **G.ILANGOVAN**

Crl.OP(MD)No.9126 of 2019

and

Crl.MP(MD)Nos.5801 and 5802 of 2019

1.Hyder Ali
2.Kathija Parveen
3.Dr.Musthafa Meeran : Petitioners/A1 to A3

Vs.

S.Singaravelu : Respondent/Complainant

Prayer:- This Criminal Original Petition has been filed under section 482 of the Criminal Procedure Code, to call for the records in connection with the private complaint in CC No.13 of 2019 pending on the file of the Judicial Magistrate, Bodinayakanur and quash the same and pass such further or other orders.

For Petitioners : Mr.N.Sathish Babu

For Respondent : Mr.S.Saravana Kumar

O R D E R

This criminal original petition has been filed seeking quashment of the private complaint in CC No.13 of 2019 pending on the file of the Judicial Magistrate, Bodinayakanur.



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2. The facts of the complaint in brief:-

The first accused owns the property in survey Nos. 1044/2 and 1055/2 situated in Kombai Village, Uthamapalayam Taluk, Theni District. He leased out the property to the de-facto complainant, on 27/02/2009 and he developed the property and also planted coconut trees. Later, A1 went abroad. A2 renewed the lease agreement, on 21/07/2012 as the wife of A1. His right was also confirmed by the District Munsif Court, Uthamapalayam, in IA No.486 of 2016 in O.S No.136 of 2016. Even after expiry of the lease period, the complainant continued to be in possession. In the meantime, A2 to A7 at the instance of A1 tried to evict him from the property illegally. Over which, a complaint was also given.

3. In the police station, he was forced to sign in the agreement and a false complaint has also been given by A6 before the Kombai Police Station, on 02/09/2016. Again, another false complaint was given by A4, on 11/08/2016. Only because of the trouble made by the accused persons, suit in O.S No.136 of 2016 was filed. During enquiry in I.A No.486 of 2016, it came to know



that false documents have been created by the accused persons and produced the same before the trial court. Those documents were also marked in the above said application. The trial court, after elaborate discussion, found that the above said documents have been created. So on that ground, the accused persons are liable to be punishable under sections 109, 120-B, 193, 198, 199, 200, 209, 420, 447, 465, 469, 471, 500 r/w 34 IPC.

4. Seeking quashment of the same, this criminal original petition has been filed.

5. At the time of argument, the learned counsel appearing for the petitioners would submit that the suit, which was filed by the respondent in O.S No.136 of 2016 was withdrawn by him stating that he did not want to prosecute the matter further. By pointing out this judgement and decree, it is contended that since the cause of action itself does not survive in view of the withdrawal of the original suit, the criminal complaint itself is also liable to be quashed.



6.The respondent has also appeared and does not dispute the withdrawal of the above said suit.

7.No doubt that IA No.486 of 2016 in O.S No.136 of 2016 ended in favour of the respondent herein. The right of the respondent as a lessee was disputed by the accused persons. It was also found that only as a lessee, the respondent was in possession of the property and enjoying usufructs of coconut trees. The documents, that were produced by the petitioners found to be not enforceable in nature. But nowhere, it has been stated that all the documents were created for the purpose of disputing the right of the respondent. So, I find no merit in the private complaint. On that score, this petition is liable to be allowed.

8.In the result, this criminal original petition is **allowed** and the private complaint in CC No.13 of 2019 pending on the file of the Judicial Magistrate, Bodinayakanur, is set aside. Consequently connected Miscellaneous Petitions are closed.

03/03/2023

Index:Yes/No
Internet:Yes/No
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To,

The Judicial Magistrate,
Bodinayakanur,
Theni District.



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G . ILANGO VAN , J

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