



WEB COPY

CrI.O.P.(MD)No.19224 of 2019



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **23.01.2023**

CORAM:

THE HONOURABLE MR.JUSTICE **G.ILANGO VAN**

CrI.O.P.(MD)No.19224 of 2019

and

CrI.M.P(MD).No.11285 of 2019

1.Velmurugan
2.Deepalakshmi

... Petitioners

Vs.

1.The State, Represented by its,
The Inspector of Police,
Anna Nagar Police Station,
Madurai City.

2.Sabapathi

... Respondents

PRAYER : Criminal Original Petition is filed under Section 482 of Cr.P.C, to call for the entire records relating to the impugned FIR in Crime No.31 of 2019 on the file of the first respondent police and quash the same in so far as the petitioners are concerned.

For Petitioners
For R1

: Mr.S.Jeyakarthick
: Mr.M.Sakthi Kumar
Government Advocate(CrI. Side)



ORDER

WEB COPY

This petition has been filed to call for the entire records relating to the impugned FIR in Crime No.31 of 2019 on the file of the first respondent police and quash the same in so far as the petitioners are concerned.

2. The case of the prosecution in brief:

The second respondent is the defacto complainant herein. The first and second accused are husband and wife. The 3rd and 4th accused are brothers of the first accused. The house property in D.No.17, Corporation Sugarcane Factory Colony, T.S.No.21(Part), Madurai Corporation Colony, Ward-10, Madurai Town belonged to one Pandiyammal, who is none other than the mother of the Accused Nos.1, 3 4. The said Pandiyammal executed a sale deed in favour of the first accused in the year 2005. Thereafter, the first accused alienated the above property to the defacto complainant/second respondent and his wife vide registered sale deed dated 12.02.2018 in document No.648/18. In the sale deed, the second accused stood as attesting witness. In the meantime, the accused Nos.3 and 4 have filed a suit in O.S.No.165 of 2018 before the learned Principal District Munsif Court, Madurai seeking the relief of permanent



injunction as against the first accused and the defacto complainant and his wife. Later only, the defacto complainant came to know that all the accused persons joined together and filed the above said suit for grabbing the property.

3. Now, this petition has been filed seeking quashment of the FIR in Crime No.31 of 2019 against the accused Nos.1 and 2, on the ground that no allegation has been made against these petitioners with regard to the criminal conspiracy. They can very well establish their right before the Principal District Munsif Court, Madurai, in O.S.No.165 of 2018. Pending the civil suit, this petition has been filed.

4. In spite of repeated notice, the second respondent who is the defacto complainant did not appear through his counsel, since it has been submitted on the earlier occasion, before this Court that the compromise was reached between the parties. But the second respondent is not co-operating for disposing the matter.

5. The learned Government Advocate(Crl.Side) appearing for the respondent police submitted that because of the compromise that has been reached between the parties in the pending civil proceedings, the



second respondent is not co-operating to complete the process of investigation also.

6. Today, when the matter was called, the learned counsel for the petitioners has produced the judgment and decree passed in O.S.No.165 of 2018 that was filed by the K.P.Urpawa Ruthirar and K.P.Balasubramaniyan against the K.P.Velmurugan, who is the first petitioner herein and two others, namely, M.Alagammai and Sababathi.

7. The second accused is not a party to the suit and on behalf of the second accused, the accused Nos.3 and 4 submitted before that Court that the matter has been settled out of the Court to the effect that she has also filed a memo. Since the defacto complainant made allegation that even though sale was effected in his favour by the first accused, by colluding with the other accused, they refused to vacate the house premises and criminal intimidation was also made by them.

8. Since the main cause of action itself is settled between the defacto complainant and the first accused and accused Nos. 3 and 4, nothing remains for criminal proceedings to be pursued as already submitted by the learned Government Advocate (Crl. Side), because of



the above said compromise reached between the parties, the defacto complainant is not co-operating for the investigation. The civil issue has been given a criminal colour. So the continuation of the proceedings will amount to abuse of process of law. Therefore, FIR in Crime No.31 of 2019 is liable to be quashed.

9. In view of the above, FIR in Crime No.31 of 2019 is quashed and this Criminal Original Petition is allowed. Consequently, the connected miscellaneous petition is also closed.

23.01.2023

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

TTA

To

- 1.The Inspector of Police,
Anna Nagar Police Station,
Madurai City.
- 2.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



WEB COPY



Crl.O.P.(MD)No.19224 of 2019

G.ILANGOVAN. J.

TTA

Crl.O.P.(MD)No.19224 of 2023

23.01.2023