



CrI.O.P.No.16781 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.03.2024

CORAM:

THE HON'BLE MRS.JUSTICE T.V.THAMILSELVI

CrI.O.P.No.16781 of 2022

and

CrI.M.P.Nos.10035 & 10039 of 2022

1. Sekar @ Dhanasekar

2. Dhanam

... Petitioners

Versus

1. State rep. by

The Deputy Superintendent of Police,
District Crime Branch,
Cuddalore Dt.

2. Appar Sundaram

... Respondents

PRAYER : Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to call for the entire records C.C.No. 241 of 2017 on the file of the Judicial Magistrate-I, Panruti and quash the same.

For Petitioner : Mr.T.Saikrishnan

For Respondents : Mr.S.Vinoth Kumar,
Govt. Advocate (CrI. Side) for R1

Mr.A.Thirumaran for R2



Crl.O.P.No.16781 of 2022

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ORDER

This Criminal Original Petition has been filed seeking to quash the complaint in C.C. No. 241 of 2017 on the file of Judicial Magistrate-I, Panruti.

2. Heard both sides.

3. The petitioners are ranked as A2 and A3 in a private complaint in C.C.No. 241 of 2017 filed by the 2nd respondent/defacto complainant under Sec.156(3) r/w 190(1(a) of Cr.P.C. praying to register the complaint against three accused persons. Subsequently, a protest petition was filed by the 2nd respondent/defacto complainant, which was treated as a complaint under Sec.200 Cr.P.C. and a case was registered against them and the learned Magistrate took cognizance of offence under Sec.406 and 420 of I.P.C. as against A1 and Sec.467 and 471 of I.P.C. as against the petitioners/A2 and A3. Summons were ordered to be issued to A1 to A3. Now, the petitioners have filed this petition praying to quash the said complaint.



CrI.O.P.No.16781 of 2022

WEB COPY

4. The learned counsel for petitioners would submit that admittedly, the petitioners/A2 and A3 are husband and wife. According to the 2nd respondent/defacto complainant, he executed a sale agreement in favour of 1st petitioner on 20.09.2004 and subsequently, he had executed a power of attorney in favour of 2nd petitioner on 04.10.2004. Based on that power of attorney, she executed a sale deed in favour of 1st petitioner on 20.02.2006. He would submit that for nearly about 12 years, he enjoyed the property of 1st petitioner and all these facts are very well known to the 2nd respondent/defacto complainant, but only in order to harass them, he filed a vexatious complaint. Therefore, he prayed to quash the proceedings initiated against the petitioners.

5. The learned counsel for 2nd respondent/defacto complainant would submit that he never entered into any sale agreement with the 1st petitioner nor executed any power of attorney in favour of his wife/2nd petitioner, on the other hand, one Jabaraj was in need of money and at his request, he handed over his title deed to help the said Jabaraj. By handing over the said document, the 1st petitioner Sekar @ Dhanasekar borrowed a loan and thereafter, all these documents were created by the petitioners



Crl.O.P.No.16781 of 2022

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without consent of 2nd respondent/defacto complainant. Subsequently, to grab the property, the 1st petitioner obtained a sale deed through his wife. Hence, he gave a complaint. On verification of records as well as prima facie materials, the trial judge has rightly taken the case on file. Hence, he prayed to dismiss this petition.

6. Records perused. As per the forensic report, the thump impression and signature in the sale agreement as well as power of attorney is tallying with the petitioners' thump impression, which itself sufficient to hold that the 2nd respondent/defacto complainant executed a sale agreement and power of attorney in favour of petitioners respectively. This fact was strongly denied by the 2nd respondent/defacto complainant stating that the forensic report is not a conclusive proof, besides he is having prima facie material to prove how the document came into picture. On considering both side submissions, the investigating officer submitted a final report before the trial court, which was enclosed in the typed set of papers and the same was perused. On perusal of final report, it reveals that there is a loan transaction between Jabagaraj and the said Sekar @ Dhanasekar, 1st petitioner herein. So,



Crl.O.P.No.16781 of 2022

WEB COPY

though the thumb impression was tallied with the signature of 2nd respondent/defacto complainant, however there is some prima facie material ingredients reveals the fact that there was a loan transaction between Jabaraj/A1 along with the petitioners/A2 and A3. Therefore, the property belong to the 2nd respondent/defacto complainant is involved in this case, which needs detailed evidence and it is a matter for trial. Hence, at this stage, I am not inclined to quash the proceedings initiated against the petitioners. Accordingly, this Criminal Original Petition is dismissed. Consequently, connected Criminal Miscellaneous Petitions are closed.

27.03.2024

Index: Yes/No
Internet: Yes/No
rpp

To

1. The Deputy Superintendent of Police,
District Crime Branch,
Cuddalore Dt.
2. The Public Prosecutor,
High Court, Madras.



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Crl.O.P.No.16781 of 2022

T.V.THAMILSELVI, J.

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CRL.O.P.No.16781 of 2022

27.03.2024