



Crl.O.P.No.9725 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.01.2024

CORAM :

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

Crl.O.P.No.9725 of 2022
and Crl.M.P.No.5717 of 2022

K.Kanakavel

... Petitioner

Versus

1.The State represented by the
Inspector of Police,
Muthandikuppam Police Station,
Cuddalore District.

2.Velmurugan

... Respondents

PRAYER: Criminal Original Petition filed under Section 482 of the Criminal Procedure Code, praying to call for the records relating to the FIR dated 31.12.2021 in Crime No.557 of 2021 on the file of the first respondent and quash the same.

For Petitioner : Mr.P.Rajendran

For Respondent 1 : Mr.S.Vinoth Kumar,
Government Advocate (Crl. Side)

For Respondent 2 : Mr.K.Poomalai



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ORDER

This petition has been filed to quash the proceedings in Crime No.557 of 2021 on the file of the 1st respondent for the offences punishable under Sections 406, 420, 294(b) and 506(i) of IPC.

2.The case of the prosecution is that the defacto complainant lodged a complaint on 31.12.2021 stating that the petitioners and the defacto complainant are belongs to same village. Earlier, the defacto complainant's father had borrowed some money from the 1st petitioner as debt and likewise the defacto complainant also had borrowed some money from him by executing bond papers. By using the same the 1st petitioner had transferred 60 cents of the defacto complainant's land to his name and thereby committed cheating and forgery. In this regard, the 2nd and 3rd petitioners were abused him in filthy languages and also threatened with dire consequences. Hence, the complainant.

3. The learned counsel for the petitioner submitted that the defacto complainant had borrowed money from him in the year 2004 and he had filed two suits in O.S.No.409 of 2004 and O.S.No.697 of 2004 for recovery of money against the defacto complainant. The petitioner submits that both the



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said suits were decreed in his favour against the defacto complainant.

Thereafter, he filed E.P.No.7 of 2009 in the above said O.S.No.657 of 2004 for execution of the decree passed in the said suit. Ultimately, the land belonging to the defacto complainant in old S.No.273/8, Patta No.230, Pulavankuppam Village, Veerasinghankuppam Madura, Panrutti Taluk, Cuddalore District within the Sub-Registration District of Kadampuliyur was put on Public auction sale by the Hon'ble Court on 09.02.2012 and the petitioner purchased the said property in the said auction and the sale was confirmed by the Hon'ble Court on 07.06.2012. Thereafter, the property was delivered to the petitioner as per the sale certificate on 11.09.2013 and upon the filing of the delivery receipt the same was recorded and E.A.89/2013 filed in E.P.No.7 of 2009 for delivery of possession was closed on 19.09.2013 by the Hon'ble Court. The petitioner has been in enjoyment and possession of the above mentioned property since then. The petitioner tried to put up fencing to protect his property. The defacto complainant without any reason objected to it stating the he will permit the petitioner to put up the fencing only if the above mentioned property is returned back to him. Thereafter lodged a complaint against the petitioner. He further submitted that there is no specific role has been attributed to the petitioner. The allegations are extremely vague in nature and allowing the proceedings to continue would be an abuse of the



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process of law. The FIR is therefore liable to be quashed.

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4. The learned Government Advocate (Crl.side) submitted that the defacto complainant borrowed a money long back from the 1st petitioner by adducing promissory note. The petitioner manipulating the promissory note and filing the suit with fabricated documents and also obtained ex-parte decree and also auctioned the property belongs to the defacto complainant behind his back. He further submitted that it is at the stage of FIR and the investigation is only at preliminary stage, it needs detail investigation. Hences, he opposed to quash the FIR.

5. The facts reveals that there was a money transaction between the defacto complainant and A1. Now A1 contended that based on the Civil Court decree he auctioned the property through Court of Law and having a wrongful possession. Even notice was not served properly and exparty decree was passed against the defacto complainant. The entire property belongs to the defacto-complainant is now belongs to the 1st accused, it needs detailed investigation



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6. I do not find any points to quash the proceedings against the petitioner. Accordingly, this Criminal Original Petition is dismissed as devoid of merits. Consequently, connected Miscellaneous petition is closed.

7. However liberty is granted to the defacto complainant to take steps to set aside the ex-parte decree by filing appropriate application.

03.01.2024

Index : Yes/No
Speaking/Non Speaking order
Neutral Citation: Yes/No

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To

1.The Inspector of Police,
Muthandikuppam Police Station,
Cuddamore District.

2.The Public Prosecutor,
High Court of Madras.



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T.V.THAMILSELVI, J.

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