



WEB COPY



CrI.O.P.(MD)No.5010 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 21.02.2024

CORAM:

THE HONOURABLE MR.JUSTICE **M.DHANDAPANI**

CrI.O.P.(MD) No.5010 of 2022

and

CrI.M.P.(MD).No.3553 of 2022

1.G.T.Mani @ Thulasimani

2.Jeyapal

3.Selvaraj

4.Maruthumuthu

... Petitioners/Accused Nos.2 to 5

Vs.

Kannan

...Respondent

PRAYER: Criminal Original Petition is filed under Section 482 of Cr.P.C, to call for the records pertaining to the case registered in impugned private complaint in C.C.No.152 of 2021 on the file of the learned Additional District cum Judicial Magistrate, Vedasandur and quash the same as illegal insofar as the petitioners are concerned.

For petitioners : Mr.J.Lawrance

For Respondent : Mr.R.Ramasamy



WEB COPY



CrI.O.P.(MD)No.5010 of 2022

ORDER

This petition has been filed seeking to quash the private complaint in C.C.No.152 of 2021 on the file of the learned Additional District cum Judicial Magistrate, Vendasandur.

2. The learned counsel appearing for the petitioners would submit that the property originally owned by one Govindasamy Reddiyar. The said Govindasamy Reddiyar had two wives and the respondent herein is the first wife's son and the petitioner Nos.1 and 2 are second wife's sons. During his life time, the said Govindasamy Reddiyar executed a Will in favour of petitioner Nos.1 and 2 and the same was objected by the second respondent, for which, the respondent filed a suit in O.S.No.65 of 2001 and the said suit was dismissed on 21.01.2011. Against which, the second respondent preferred an Appeal before the Appellate Court in A.S.No.42 of 2012 and the said Appeal was partly allowed vide Judgment and Decree dated 07.11.2012, observing that when the said Govindasamy Reddiyar was in Hospital, the Will was executed by him to petitioner Nos.1 and 2, which creates more suspicious and hence, the respondent made a complaint before the concerned Police and the concerned Police registered a case in Crime No.7 of 2015 for



the offence under Sections 406, 420, 463, 467, 468, 471 and 120b IPC.

After enquiry, the Inspector of Police had decided to drop the said criminal case by filing a closure report as “Action Dropped” before the concerned Court. Thereafter, the respondent has preferred the impugned private complaint under Section 200 r/w 190(1)(b) Cr.P.C., before the learned Judicial Magistrate, Vendasandur and thereafter, the same was taken in Cr.M.P.No.38 of 2018 and it came to be dismissed on 16.02.2018 observing that the respondent has right to file a protest against the closure of the Police as “Action Dropped”. Challenging the same, the respondent preferred a Revision in Cr.I.RC.(MD).No.303 of 2018 and this Court by its Order dated 20.09.2019 had remitted the matter back to the trial Court for fresh disposal by setting aside the order of the learned Judicial Magistrate. Challenging the same, the present complaint has been filed.

3. The learned counsel appearing for the petitioners would submit that the entire issue with regard to the Will executed by petitioner Nos.1 and 2's father in favour of them, which was questioned by the respondent / defacto complainant. In fact, the validity of the Will was suspected by the Lower Court and the same was challenged before this Court in S.A.(MD).No.370 of 2017 and the same is now pending before



this Court. The issue before this Court is whether the respondent is entitled to file a private complaint during the pendency of the Second Appeal for the very same subject matter. At this stage, the respondent / defacto complainant filed a private complaint under Section 200 Cr.P.C. before the trial Court which is not sustainable one and this Court is of the view that no two parallel proceedings can be taken at the same time as against the order passed by the Lower Appellate Court.

4. In view of the fair submission made by both sides and without expressing any opinion with regard to the disputed Will, this Court is inclined to quash the private complaint in C.C.No.152 of 2021 on the file of the learned Additional District cum Judicial Magistrate, Veda sandur against the petitioners herein.

5. At this juncture, the learned counsel appearing for the respondent would submit that this Court may grant liberty to the respondent to file a private complaint after disposal of the Second Appeal before this Court.

6 In the result, the Criminal Original Petition stands allowed. However, liberty is granted to the respondent / defacto



Crl.O.P.(MD)No.5010 of 2022

complainant to file a fresh complaint before the trial Court subject to the outcome of the Second Appeal pending before this Court. Consequently, connected miscellaneous petition is closed.

21.02.2024

Index : Yes/No
Internet : Yes/No
TSG
To

1. The Additional District Munsif cum
Judicial Magistrate, Vendasandur.
2. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



WEB COPY



Crl.O.P.(MD)No.5010 of 2022

M.DHANDAPANI. J.

TSG

Crl.O.P.(MD)No.5010 of 2022

21.02.2024