



Crl.O.P.(MD)No.15572 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 08.02.2024

CORAM:

THE HONOURABLE MRS.JUSTICE R. HEMALATHA

Crl.O.P.(MD)No.15572 of 2021 &
Crl.M.P.(MD)No.8345 of 2021

1.V.M.Nanthlal
2.V.N.Asha

... Petitioners

vs.

1.State rep by.
The Inspector of Police,
Othakadai Police Station,
Madurai District.

2.Muthukrishnan

... Respondents

Prayer: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure to call for the FIR in Crime No.372 of 2018 on the file of the first respondent Police and quash the same.

For Petitioners : Mr.S.G.L.Rishwanth

For Respondents : Mr.R.M.Anbunithi
Additional Public Prosecutor (Crl. Side)
for R1

Mr.S.Mahendrapathy for R2



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CrI.O.P.(MD)No.15572 of 2021

ORDER

The petitioners are the accused 1 and 2 in Crime No.372 of 2018 of Othakadai Police Station, Madurai. They have filed the present petition seeking quashment of FIR in the above said Crime Number.

2. The case of the prosecution in a nutshell is as follows.

On 17.11.2010, the first petitioner / A1 along with his family members entered into an unregistered sale agreement with one Kaliraj in respect of their ancestral property measuring 2 acres 86 cents (vacant land) situate in S.No.97/15 of Kalikappan Village. The sale consideration was fixed at Rs.38,000/- per cent. According to the petitioners, a sum of Rs.15,00,000/- was paid towards advance and it was agreed that the remaining sale consideration should be paid within a period of three months and get the sale deed executed. Since the balance sale consideration was not paid within the time stipulated in the agreement, the petitioners sent a notice to the purchaser Kaliraj informing the latter about the cancellation of sale agreement and also requested him to collect the advance amount paid by him. However, the said Kaliraj and the



CrI.O.P.(MD)No.15572 of 2021

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defacto complainant abused the first petitioner / A1, for which, he preferred a complaint before the Inspector of Police, Thallakulam Police Station and it was registered in C.S.R.No.670 of 2018 on 22.06.2018. The Police thereafter summoned Kaliraj for an enquiry and during the course of enquiry, Kaliraj gave an undertaking letter that he would not harass the petitioners / accused and would take appropriate remedy through a competent Civil Court. However, Kaliraj and the defacto complainant demanded the first petitioner / A1 to pay a sum of Rs. 30,00,000/- and on 03.08.2018 at about 12.00 noon, they came with four unknown persons and threatened him with dire consequences. The petitioners though preferred a complaint on 18.08.2018 before the Superintendent of Police, Madurai, no FIR was registered. In the meanwhile, the defacto complainant approached the learned Judicial Magistrate, Melur on 08.09.2018 and filed a petition in CrI.M.P.No.4770 of 2018 under Section 156(3) of Cr.P.C which was referred to the Police by the Magistrate based on which, the Police registered FIR in Crime No. 372 of 2018 against the present petitioners / accused.



CrI.O.P.(MD)No.15572 of 2021

WEB COPY

3. Mr.S.G.L.Rishwanth, learned counsel appearing for the petitioners would contend that the complaint preferred by the defacto complainant is totally false and that the petitioners did not receive a sum of Rs.30,00,000/- towards advance as contended by the defacto complainant. It is his further submission that Kaliraj did not come forward to get the sale deed executed in his favour within the time stipulated in the agreement. Though the petitioners requested Kaliraj to collect the advance amount of Rs.15,00,000/- paid by him, the defacto complainant has filed a false complaint against the petitioners. He therefore, prayed for quashing the FIR in Crime No.372 of 2018.

4. Mr.S.Mahendrapathy, learned counsel appearing for the second respondent / defacto complainant contended that the defacto complainant and Kaliraj requested the petitioners to return a sum of Rs. 15,00,000/- paid towards advance and another sum of Rs.15,00,000/- paid as commission for sale. The petitioners / accused threatened the defacto complainant and Kaliraj with dire consequences and also abused them in



CrI.O.P.(MD)No.15572 of 2021

filthy language. Though a written complaint was given to the Inspector of Police, Othakadai Police Station on 04.08.2018 by the defacto complainant, the Police did not take any action and therefore, he was forced to file a private complaint before the learned Judicial Magistrate, Melur under Section 156(3) of Cr.P.C. and the Magistrate after applying his mind has directed the Police to register FIR and conduct investigation. It is his submission that the Police has to investigate the case and there is nothing on record to show that the entire allegations made in the complaint are false. He therefore, prayed for dismissal of the petition.

5. Mr.R.M.Anbunithi, learned Additional Public Prosecutor would contend that the case is still pending for investigation.

6. As per the complaint, the petitioners appear to have received a sum of Rs.15,00,000/- towards advance for sale of a property and another sum of Rs.15,00,000/- towards commission to get the signature of other trustees. According to the defacto complainant, the petitioners did not perform their part of the contract, but sent a legal notice cancelling the



CrI.O.P.(MD)No.15572 of 2021

WEB COPY

sale agreement dated 17.11.2010. On the contrary, the contention of the petitioners / accused is that Kaliraj did not come forward to get the sale deed executed after paying the balance sale consideration. In fact, the petitioners / accused lodged a complaint against Kaliraj and the defacto complainant stating that they threatened the petitioners / accused with dire consequences. The said complaint was registered in C.S.R.No.670 of 2018 of Thallakulam Police Station, Madurai. During the course of enquiry in the said complaint, the petitioners had given a letter addressed to the Inspector of Police stating that the property on which the agreement of sale was made belongs to a Trust and since the other trustees did not give their consent for sale, they were not in a position to perform their part of the contract. Subsequently, the first petitioner / A1 did not press the complaint and therefore, the same was closed. However, the defacto complainant lodged another complaint with the Inspector of Police, Othakkadai Police Station, Madurai and according to him, as no action was taken by the Police, he was forced to prefer a private complaint before the Judicial Magistrate, Melur under Section 156(3) Cr.P.C. The Judicial Magistrate, Melur referred the case to the first respondent Police



Crl.O.P.(MD)No.15572 of 2021

WEB COPY

for registering FIR and to investigate. Therefore, the first respondent police registered FIR in Crime No.372 of 2018 and the investigation is still pending.

7. A careful analysis of the allegations and the counter allegations made by both the parties clearly would go to show that the dispute between the petitioners and the defacto complainant is purely civil in nature. It is also pertinent to point out that there are no materials to show that the defacto complainant was put in imminent danger of his life on account of the threat made by the petitioners / accused. The first respondent police have not also recovered any weapon from the petitioners / accused. Further, Kaliraj did not file a suit for specific performance of contract and instead, he seems to have approached the police to get the sale deed executed in his favour. As regards the payment of Rs.30,00,000/-, it is for the Civil Court to decide the issue.

8. In such facts and circumstances, the FIR in Crime No.372 of 2018 of Othakadai Police Station, Madurai is quashed and the Criminal



Crl.O.P.(MD)No.15572 of 2021

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Original Petition is allowed. Both the parties are directed to approach the Civil Court if so advised. Consequently, the connected Miscellaneous Petition is closed.

08.02.2024

NCC: Yes/No
Index : Yes/No
Speaking/Non-Speaking order

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To

- 1.The Inspector of Police,
Othakadai Police Station,
Madurai District.
- 2.The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.



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CrI.O.P.(MD)No.15572 of 2021

R.HEMALATHA, J.

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CrI.O.P.(MD)No.15572 of 2021

08.02.2024