



Crl.O.P(MD)No.16005 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

Dated : 06.03.2024

CORAM :

THE HONOURABLE Mr. JUSTICE C.KUMARAPPAN

Crl.O.P(MD)No.16005 of 2020

and

Crl.M.P(MD)No.7956 of 2020

1.Nageswaran

2.Vikram

... Petitioners/Accused 1&2

Vs.

Balasubramanian

...Respondent/Complainant

Prayer: Criminal Original Petition is filed under Section 482 of the Code of Criminal Procedure, to call for the records relating to the private complaint in C.C.No.1484 of 2019 on the file of the Judicial Magistrate No.V, Madurai and quash the same as illegal insofar as the petitioners are concerned.

For Petitioners : Mr.R.Gandhi, Senior Counsel
for M/s.Gandhi Associates

For Respondent : M/s.P/Saravanakumar



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ORDER

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The instant Criminal Original Petition is filed to quash the private complaint in C.C.No.1484 of 2019 on the file of the Judicial Magistrate No.V, Madurai.

2.Heard the learned Senior Counsel appearing for the petitioners and the learned counsel appearing for the respondent.

3.The learned Senior Counsel appearing for the petitioners would submit that the de-facto complainant had given a complaint on 27.12.2016 before the Inspector of Police, Umachikulam Police Station alleging that one Pitchai, has got registered power of attorney from the present petitioners viz., Nageswaran, Vikram and two others viz., Lakshmi and Sowmiya. Whereas all the four persons have not gone to the registered office and that, the said Pitchai had fabricated the power of attorney. Therefore, the signature found in the power of attorney and the original signature of the accused 1 to 4 to be sent for comparison. The learned Senior Counsel would further contend that such police complaint was enquired by Umachikulam Police and has filed a referred charge



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sheet, wherein they have stated that the complaint given by the de-facto complainant is motivated one with a view to extract money from the power of attorney holder of the present petitioners and has closed the case as mistake of fact.

Aggrieved with the same, the de-facto complainant has filed a protest petition, which was converted as private complaint. The learned Senior Counsel would further submit that even if the contents stated in the complaint has been taken as true, no offence has been made out against the petitioners. It is further submitted that the witness those who were examined by the police under Section 161 Cr.P.C., statement have also stated that the first petitioner's two daughters viz., Lakshmi and Sowmiya were also present at the time of execution of power of attorney before Chokkikulam Sub-Registrar Office. Therefore, he prays to quash the private complaint.

4.Per contra, the learned counsel appearing on behalf of the respondent would vehemently contend that the signature found in the power of attorney is a forged one. Therefore, he prays that the present application is



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liable to be dismissed and the petitioners are liable to face trial so as to have effective adjudication.

5.I have given my anxious consideration on the submissions made by either side.

6.The sum and substance of the de-facto complainant's complaint is that the power of attorney executed in favour of Pitchai was not at all signed by the accused 1 to 4 before the Sub-Registrar Office. Even according to the averments made in the petition, the signature of the accused viz., Nageswaran, Vikram, Lakshmi and Sowmiya were forged by some other person. As rightly contended by the learned Senior Counsel if the allegation are taken to its true value, the aggrieved person could only be the accused and not the de-facto complainant.

7.At this juncture, it is pertinent to mention here that as per Section 60 of the Registration Act, there is a presumption attached to the Registration that had taken place before the Registrar Office. If that being the case, there is a



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prima facie material available before this Court that these accused were present while executing the power of attorney. Furthermore such conclusion has been reached by the investigating officer while filing the referred charge sheet.

8. Therefore, this Court is of the firm view that the pendency of the private complaint C.C.No.1484 of 2019 on the file of the Judicial Magistrate No.V, Madurai, is abuse of process of law and therefore, the same is liable to be quashed accordingly quashed.

9. In the result, the Criminal Original Petition is allowed. Consequently, connected miscellaneous petition is closed.

06.03.2024

NCC:Yes/No
Index:Yes/No
Internet:Yes/No
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C.KUMARAPPAN,J.
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To

- 1.The Judicial Magistrate No.V,
Madurai.
- 2.The Section Officer,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.

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