



Crl.O.P.(MD)No.20307 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 16.10.2024

CORAM:

THE HONOURABLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

Crl.O.P.(MD)No.20307 of 2023

and

Crl.M.P.(MD)Nos.15839 and 15840 of 2023

1.Durai

2.Mariyammal

... Petitioners/Accused Nos.1 & 2

VS.

1.State Through

The Inspector of Police,
Puliangudi Police Station,
Tenkasi District.
Crime No.551 of 2022

... 1st Respondent/Complainant

2.Marisamy

... 2nd Respondent/Defacto Complainant

Prayer:- Petition filed under Section 482 of Cr.P.C., to call for the records pertaining to the impugned proceedings in P.R.C.No.47 of 2023 on the file of the learned Judicial Magistrate Court, Sivagiri and quash the same as against these petitioners.

For Petitioners : Mr.A.Sankara Ramasubramanian

For Respondents : Mr.A.Albert James
Government Advocate (Crl. side) for R1

Mr.S.Malaikani for R2



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ORDER

The Criminal Original Petition is filed to quash the final report in P.R.C.No.47 of 2023 on the file of the learned Judicial Magistrate Court, Sivagiri.

2.The petitioners are arrayed as accused Nos.1 and 2. The learned counsel appearing on behalf of the petitioners would submit that it can be seen that the first petitioner purchased the property from the deceased. Since there was no pathway to the property of the first petitioner and they used the pathway of the deceased only, the first petitioner negotiated and purchased the property and the deceased came to the Sub Registrar's Office and executed the sale deed for 2 ½ cents. After execution of the sale deed, it is the family members of the deceased who raised an issue and went to the police station. Even before the police station, the petitioners asserted their right and stated that they will only go to the civil Court and without involving in any other illegal means, the petitioners only lawfully approached the civil Court and filed a suit for permanent injunction. Upon receipt of the summons, only because the children of the deceased scolded the deceased for executing the sale deed, he committed



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suicide. However, a false complaint as if the petitioners induced the deceased to commit suicide is made and the case is registered and thereafter, now the final report is filed. In any event, there is absolutely no allegation as against the second petitioner. Therefore, he would pray that the case be quashed.

3.Per contra, *Mr.A.Albert James*, learned Government Advocate (Crl. side) would submit that the case has been investigated and final report is laid. As per the evidence of the listed witnesses, it can be seen that the first petitioner herein had often given alcohol to the deceased Kaliyappan and induced him. It is further stated by the witnesses that the deceased was not very literate and his eyesight was also dull. It is the specific case of the listed witnesses that the deceased agreed only to execute pathway for 10 feet width while 2 ½ cents have been gotten by the first petitioner by way of the sale deed. Immediately after the sale, the family members objected and even when a petition was given before the police, the first petitioner was advised to return the money and they keep an extent of 10 feet alone. However, the first petitioner went to the civil Court and unable to digest the fact that all his children were dragged to the civil Court and the petitioners also scolded the deceased to die, soon



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before his death, the deceased committed suicide and accordingly, the final report has been rightly filed, no ground exists to quash the petition.

4.I have considered the rival submissions made on either side and perused the final report and the 161 statements made on either side.

5.Some of the arguments made by the learned counsel for the petitioners borders on factual appreciation and when the Court considers the quashing of the final report, each and every sentence of the statements made by the listed witnesses have to be taken true and the veracity or the truth or otherwise, or the likelihood of the falsity cannot be considered by this Court at this stage. When the allegations are made, for factual contradictions or the fact that the petitioners never threatened or directed the deceased to consume poison etc, this Court cannot quash the case as the same has to be gone into by the trial Court. Therefore, all the contentions which are raised by the learned counsel for the petitioners are left open to be raised during the course of the trial and it shall be appreciated by the trial Court in accordance with law.



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6.However, it can be seen that the entire allegations of inducing the deceased to execute the sale deed, purchasing him alcohol, paying the sale consideration and executing the sale deed in his favour are all made only as against the first petitioner Durai. The only stereotypical sentence which is said as against the second petitioner is that when the deceased and the others of the family went to his house after receipt of the summons, the following words are uttered by the first petitioner as well as the second petitioner. It is relevant to extract the said statement:

“என் பிள்ளைகளுக்கு நீதிமன்றத்திலிருந்து எதற்காக நோட்டீஸ் அனுப்பி வைத்துள்ளீர்கள் நம்பிக்கை துரோகம் செய்துவிட்டாய் என்று கூற உடனே துரை அவரது அம்மா மாரியம்மாள் ஆகியோர்கள் என் அப்பாவை பார்த்து நீ எதற்காக உயிரோடு இருக்கிறாய் நீ எல்லாம் மருந்தை குடித்து சாவுல என இருவரும் கூறினார்கள்.”

7.All the listed witnesses repeat the identical statement without any change. It is not even mentioned that the second petitioner separately scolded the deceased or uttered any words to the deceased. Therefore, it can be seen that except for joining her name, not even any specific overt act of scolding the deceased is specifically mentioned against her. Even taking all the materials on face value, there is no material to proceed as against the second petitioner as far as the case is concerned.



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8.In view thereof, this Criminal Original Petition is partly allowed. The proceedings in P.R.C.No.47 of 2023 stands quashed inasmuch as the second petitioner is concerned. As far as the first petitioner is concerned, all the questions raised before this Court are left open to be raised before the trial Court and the same shall be considered in accordance with law.

9.Considering the PRC is pending from the year 2023, the learned Judicial Magistrate Court, Sivagiri, is directed to commit the case as expeditiously as possible and thereafter, the prosecution shall ensure that the trial be conducted as expeditiously as possible. Consequently, connected miscellaneous petitions are closed.

16.10.2024

NCC : Yes
sji

To

- 1.The Judicial Magistrate Court, Sivagiri.
- 2.The Inspector of Police,
Puliangudi Police Station,
Tenkasi District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.



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D.BHARATHA CHAKRAVARTHY, J.

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