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CrI.O.P.No.31323 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.01.2025

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THE HONOURABLE MR.JUSTICE P.VELMURUGAN

CrI.O.P.No.31323 of 2024

and

CrI.M.P.No.17831 of 2024

1. T.Balaji
2. N.Gnanasekaran
3. S.Elumalai
4. V.Shanmugam ... Petitioners

Vs.

1. The State rep.by
The Inspector of Police,
Chengalpattu Taluk Police Station,
Crime No.716 of 2024,
Chengalpattu District.
2. Victor Mosas Paul ... Respondents

Prayer: Criminal Original Petition is filed under Section 482 Cr.P.C./ 528 BNSS 2023, to call for the records relating to the impugned FIR in Crime No.716 of 2024 on the file of the 1st respondent, quash the same by allowing this Criminal Original Petition.

For Petitioners : Mr.N.Manoharan

For Respondents : Mr.S.Sugendran
Additional Public Prosecutor for R1
Mr.S.Shanmugam for R2



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ORDER

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2. The case of the prosecution is that the first petitioner herein is the owner of the land in S.F.No.508/2 in Athur Village measuring an extent of 1.04 acres and he had entered into a sale agreement dated 12.01.2022 with the second respondent herein and one K.Ramasamy for a sale consideration of Rs.69,68,000/-. He also received an advance amount of Rs.15,00,000/-. While that being so, the second petitioner being the owner of 36 cents comprised in S.F.No.508/1 in Athur Village had executed unregistered sale agreement to sell the property to the second respondent for a sale consideration and also received advance amount on 26.01.2022. Thereafter, the second respondent made arrangements to sell the entire property by way of house sites, however, the petitioners 1 and 2 had refused to co-operate with second respondent and cancelled the said sale agreements. Hence the second respondent requested the petitioners 1 and 2 to refund the advance amount, for which, they scolded him with filthy language and also intimidated him. Hence the second respondent made a complaint before the first



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respondent-Police on 16.09.2023. Since the first respondent-Police has not taken any action to register the complaint, the second respondent filed a petition in Crl.M.P.No.1787 of 2024 on the file of the Judicial Magistrate Court-II, Chengalpattu. Pursuant to the order dated 05.06.2024 passed in the said Crl.MP. by the Court below, the first respondent-Police registered a case in Crime No.716 of 2024 against the petitioners for the alleged offence punishable under Sections 406 and 420 IPC. Challenging the same, the present petition has been filed.

3. Learned counsel for the petitioners submitted that the entire allegations made in the impugned FIR are false. The complaint does not disclose any relevant ingredients of Sections 406 and 420 IPC. The second respondent has deliberately suppressed the material facts and misled the learned Magistrate, to pass an order under Section 156(3) Cr.P.C. He further submitted that the entire allegations made in the complaint are civil in nature as the dispute between the petitioners and the second respondent pertains to contractual obligations between them, but the second respondent has given criminal colour. The allegations made in the complaint requires some consideration, and the only remedy is available before the competent Civil Court. However, the second



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respondent has repeatedly given a complaint after complaint before different police authorities. He further submitted that the impugned FIR was registered unmindful of the fact that there were three closure reports for the earlier complaints. Therefore, F.I.R. in Crime No.716 of 2024 is nothing but an abuse of process of law. Hence he prays to quash the FIR in Crime No.716 of 2024.

4. Heard the learned counsel for the petitioner, learned Additional Public Prosecutor for R1 and the learned counsel for R2.

5. Considering the facts and circumstances and also considering the submissions made by the learned counsel on either side, this Court finds that it is a fit case to quash F.I.R. under Section 528 BNSS 2023. Therefore, the impugned F.I.R in Crime No.716 of 2024 on the file of the 1st respondent-Police is hereby quashed and also the order in CrI.M.P.No.1787 of 2024 on the file of the Judicial Magistrate Court-II, Chengalpattu is set aside.

6. In view of the above, both the parties are directed to appear before the learned Judicial Magistrate-II, Chengalpattu on **04.02.2025**. On their appearance, the learned Magistrate is directed to re-hear the



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matter and dispose of the case on merits and in accordance with law

within a period of one month i.e., on or before **06.03.2025**.

7. With the above directions, this Criminal Original Petition is disposed of. Consequently, connected miscellaneous petition is closed.

23.01.2025

Index : Yes/No
Neutral Citation Case : Yes/No
Speaking Order : Yes/No
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Note : Issue Order Copy on 28.01.2025

To

1. The Judicial Magistrate-II,
Chengalpattu.
2. The Inspector of Police,
Chengalpattu Taluk Police Station,
Chengalpattu District.
3. The Public Prosecutor,
High Court, Madras.



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P.VELMURUGAN, J

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