



Crl.O.P (MD) No.15665 of 2024

WEB COPY **BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

DATED : 20.03.2025

CORAM

THE HONOURABLE MR.JUSTICE P. DHANABAL

Crl.O.P(MD) No.15665 of 2024

1. Selvarani

2. Kokila

3. Kokilavasan

... Petitioners

Vs

1. The State of Tamil Nadu,
Represented by the Inspector of Police,
Thuvakudi Police Station,
Trichy District.
Crime No. 47 of 2012.

2. S. Madhavan

...Respondents

PRAYER: Criminal Original petition has been filed under Section 528 of BNSS, 2023, to call for the records pertaining to the charge sheet in C.C.No.484 of 2024 on the file of the Judicial Magistrate No.VI, Trichy and quash the same as illegal.



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For Petitioners : Mr.T. Leninkumar
For R1 : Mr.M.Vaikkam Karunanithi
Government Advocate
For R2 : Mr.D.Anbarasu

ORDER

This criminal original petition has been filed by the petitioners to quash the charge sheet in C.C.No.484 of 2024 on the file of the Judicial Magistrate No.VI, Trichy.

2. The prosecution case is that, the defacto complainant and the accused no.1 entered into a sale agreement on 24.05.2006 by fixing sale price of Rs.8,25,000/- per acre and on the same day Rs.5000/- was paid as advance to the 1st petitioner, namely, Selvarani. Thereafter, on 26.05.2006, the 2nd respondent paid a sum of Rs.20,00,000/- to the 1st petitioner. When the 2nd respondent asked the 1st petitioner to execute the sale deed, she was evading from executing the sale deed. Thereafter, the 1st petitioner has also gave a receipt for the money received by her and one Periyasamay, Ramakrishnan and khaji Mohammed have also signed in the said receipt. Thereafter, when the 2nd respondent demanded



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the 1st petitioner to execute the sale deed, the 1st petitioner has refused and thereby, cheated the 2nd respondent. When the same was questioned by the 2nd respondent, the petitioners abused and threatened with dire consequences. Therefore, the 2nd respondent lodged a complaint before the 1st respondent and F.I.R came to be registered in Crime No.47 of 2012. Thereafter, the 1st respondent completed the investigation and filed the final report and the same was taken cognizance by the learned Judicial Magistrate No.VI, Trichy in C.C.No.484 of 2024. Now the petitioners are challenging the said pending C.C proceedings.

3. The learned counsel appearing for the petitioners would submit that there is an agreement between the 1st petitioner and the 2nd respondent and thereafter, the 2nd respondent was not ready to get the sale deed. Per contra, he lodged a false complaint as if the petitioners cheated the 2nd respondent after receipt of amount for the sale of property. In fact, even as per the F.I.R, there is no any criminal offences made out and the matter is purely civil dispute arising out of the contract in respect of purchase of property. Therefore, the 2nd respondent without filing any suit, after 6 years for the time barred dispute has filed this false complaint. The 1st respondent was also without conducting a proper



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investigation has filed the final report and the Trial Court also failed to consider that the matter is purely civil in nature arising out of an agreement and without any prima facie material taken cognizance. Therefore, the pending proceedings in C.C.No.484 of 2004 on the file of the learned Judicial Magistrate No.VI, Trichy is liable to be quashed.

4. The learned counsel appearing for the 2nd respondent would submit that the petitioners received a sum of Rs.20,00,000/- from the 2nd respondent and executed an agreement and the 1st petitioner has also gave a receipt for the receipt of the amount and thereafter, they neither executed sale deed nor returned the amount. The 1st petitioner has executed the gift deed in favour of her children and when the same was questioned by the 2nd respondent, they threatened with dire consequences. Therefore, the 2nd respondent has filed a petition under Section 156 (3) of Criminal Procedure Code (Cr.P.C), 1973 and the same was forwarded to the 1st respondent and they registered a present case. Thereafter, the 1st respondent has conducted an elaborate investigation and filed the final report. Therefore, there are prima facie material available to constitute the offences and the petitioners have to face the trial and this petition is liable to be dismissed.



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5. The learned Government Advocate appearing for the 1st respondent would submit that there is a dispute pending between the 1st petitioner and the 2nd respondent in respect of money based on the agreement for sale of property. The 1st petitioner and the 2nd respondent entered into an agreement to sell the property and the 1st petitioner received a sum of Rs.20,00,000/- from the 2nd respondent towards advance of sale consideration and thereafter, he neither executed the sale deed nor repaid the advance amount. Therefore, the 2nd respondent lodged a complaint before the learned Judicial Magistrate No.VI under Section 156 (3) of Cr.P.C and the same was forwarded to the 1st respondent and in turn, the 1st respondent registered a case in Crime No. 47 of 2012 for the offences under Sections 120(b), 420, 467, 468, 506(1), 471, 417 of IPC and they conducted investigation and filed the final report. Based on the final report, the Trial Court has also taken cognizance for the offences under Sections 417, 420, 467, 506(1) of IPC. Therefore, there are prima facie material available as against the petitioners and it is a matter of trial to proceed the case. At this stage, the petition is liable to be dismissed.



6. Heard both sides and perused the materials.

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7. In this case, the allegations against the petitioners is that the petitioners entered into an agreement with the 2nd respondent and received sum of Rs.20,00,000/-. Thereafter, they refused to execute the sale deed and also not repaid the amount and thereby, the petitioners cheated the 2nd respondent. When the 2nd respondent questioned about the non repayment of money, the petitioners threatened with dire consequences and thereby, the 2nd respondent lodged a complaint before the learned Magistrate under Section 156 (3) of Cr.P.C and the same was forwarded to the 1st respondent and thereafter, the present F.I.R has been registered for the offences under Sections 120(b), 420, 467, 468, 506(1), 471, 417 of IPC. On a careful perusal of the complaint as well as the final report and other documents would show that there is an agreement between the parties for execution of sale deed and thereafter, the owner of the property, namely, Selvarani / 1st petitioner has refused to execute the sale deed. While so, it is the duty of the 2nd respondent to take legal action to get the sale deed in his favour and no steps was taken to get the sale deed in the manner known to law and no civil suit was filed for the specific performance of contract.



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8. Per contra, after 6 years, the 2nd respondent has approached the Court under Section 156 (3) of Cr.P.C and the same was forwarded to the 1st respondent without perusing the records and without considering the nature of transaction between the parties. Since there is an agreement for sale, no question of criminal acts would arise unless there are materials to establish the criminal activity and there are no allegations that the petitioners from the inception had a dishonest intention to cheat the 2nd respondent and no any document forged for the purpose of cheating. In order to attract the offences under Sections 420, 467 and 506 (i) and 417 of IPC, there are no any materials or ingredients even as per the F.I.R and the charge sheet. On the face of the records, they revealed that the civil liability has been converted into criminal case and criminal colour has been given and the 2nd respondent lodged a complaint and the learned Magistrate has also without applying the mind has simply forwarded the petition.

9. Thereafter, the 1st respondent has also after registering the F.I.R, without conducting a proper investigation has filed the final report. After filing of the final report, the Trial Court also failed to consider that this is



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a civil dispute and no any material to constitute the offences as against the petitioners for the offences under Sections 420, 467, 417 and 506 (1) of IPC. Therefore, the pending proceeding in C.C.No.484 of 2024 is nothing but an abuse of process of law. The 2nd respondent has not taken any steps to file a civil suit within the limitation period and after lapse of limitation period i.e. after 6 years, lodged this complaint. Therefore, the intention of the 2nd respondent is also play a vital role in this case. In view of the same, this Criminal Original Petition is allowed and the pending proceeding in.C.C.No.484 of 2024 on the file of the Judicial Magistrate No.VI, Trichy is quashed.

20.03.2025

Internet :Yes
Index :Yes/No
NCC :Yes/No
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To

1. The Judicial Magistrate No.VI, Trichy
2. The Inspector of Police,
Thuvakudi Police Station,
Trichy District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

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P. DHANABAL, J.

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