

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 6-10-2015

Coram

THE HONOURABLE MR.JUSTICE P.N.PRAKASH

Crl.O.P.No.22430 of 2015

M.P.Nos.1, 2 of 2015

1. Palanisamy
2. Ponnusamy

.. Petitioners

Vs.

State rep.by

The Inspector of Police,
District Crime Branch,
Anti-Land Grabbing Special Cell,
Namakkal
(Crime No.9 of 2011)

.. Respondent

Criminal Original Petition filed under Section 482 Cr.P.C. with a prayer to call for the records relating to CC.No.247 of 2015 on the file of the Judicial Magistrate Court, Tiruchengode, Namakkal District and to quash the same.

For Petitioners : Mr.C.Prabakaran

For Respondent/State : Mr.C.Emalias,
Additional Public Prosecutor

O R D E R

Heard Mr.C.Prabakaran, learned Counsel appearing for the petitioners.

2. It is the case of the prosecution that the land in question belongs to one Marappan, his wife Soundaram and mother-in-law Chinnammal. The land was very rich in minerals and therefore it was leased out for the purpose of mining to M/s.Indiana Minerals & Allied Industries for a period of 20 years, commencing from 1976 onwards. R.Palanisamy (A-1) and his wife were in the management of M/s.Indiana Minerals & Allied Industries when the lease was entered into. After expiry of lease period possession of the property was handed over to Marappan, but the accused wanted to further exploit the land, and therefore it is alleged that the accused had created a bogus power of attorney as if Chinnammal had given power of attorney in respect of the land to Marappan and on the strength of the same, Marappan had entered into a sale agreement with Palanisamy (A-1) for selling the said land. Based on the forged sale agreement, a suit for specific performance of contract was filed by Palanisamy (A-1) against Marappan and Others.

Marappan and others came to know that they had neither executed power of attorney nor sale deed, lodged the present complaint, which culminated in the Police filing final report against five accused, challenging which Palanisamy (A-1) and Ponnusamy (A-4) are before this Court.

3. The respondent Police have filed counter affidavit strongly opposing the quashment of the prosecution.

4. Mr.C.Prabakaran, learned Counsel appearing for the petitioners submitted that the subject matter of the dispute is pending in O.S.No.13 of 2011 on the file of the Sub Court, Tiruchengodu, which is a suit for specific performance of contract. Therefore, unless a decision is taken as to the validity of the power of attorney and the sale agreement, the criminal prosecution will be an abuse of process of law.

5. This Court is unable to countenance this argument in view of the Constitution Bench Judgment of the Supreme Court in Iqbal Singh Marwah v. Meenakshi Marwah (2005 AIR SCW 1929 : AIR 2005 SC 2119, wherein the Supreme Court held that where forgery has been committed outside the Court and thereafter litigation is started based on the forged document, criminal prosecution is not barred.

6. In view of the above, this Criminal Original Petition is devoid of merits and accordingly the same is dismissed. Connected miscellaneous petitions are also dismissed. It is open to the petitioners/accused to raise all the defence before the trial Court.

Sd/-
Asst.Registrar (LA)

/true copy/

Sub Asst. Registrar

vr

To

1. The Inspector of Police, District Crime Branch,
Anti-Land Grabbing Special Cell, Namakkal

2. The Judicial Magistrate
Tiruchengode
Namakkal District

3. do thro the Chief Judicial Magistrate,
Namakkal District

4. The Sub Court,
Tiruchengode
Namakkal District

5. The Public Prosecutor,
High Court, Madras.

1 cc to Mr.C. Prabakaran, Advocate, sR. 54334

Cr1.O.P.No.22430 of 2015

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