

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 10.07.2015

Delivered on : 20.07.2015

CORAM

THE HONOURABLE MR.JUSTICE P.N.PRAKASH

CRL.O.P.No.26955 of 2014
and M.P.Nos.1,2 of 2014

1.Uma Raghuraman
2.Sugantha
3.J.Tharakeshwaran

... Petitioners

Versus

1.The State of Tamil Nadu
Rep. by its Inspector of Police,
Thudiyalur Police Station,
Coimbatore.

2.Manjula

... Respondents

Criminal Original petition filed under Section 482 of the Criminal Procedure Code praying to quash the FIR No.635 of 2013 dated 02.08.2013 on the file of the 1st respondent.

For Petitioners : Mr.N.Senthil Kumar

For Respondents : Mr.C.Emalias, Addl. Public Prosecutor

[for R1]

: Mr.R.Shanmugasundaram,

Senior Counsel

for Mr.L.Baskaran [for R2]

O R D E R

This petition has been filed to quash the FIR in Crime No.635 of 2013 dated 02.08.2013 on the file of the 1st respondent.

2. Heard the learned counsel for the petitioners; the learned Additional Public Prosecutor appearing for the 1st respondent; the learned senior counsel appearing for the 2nd respondent and perused the materials placed on record.

3. The factual matrix of this case is under. For the sake of convenience, the parties will be referred to by their name. On a private complaint lodged by Majula before the learned Judicial Magistrate I, Coimbatore, Police investigation was ordered under Section 156[3] Cr.P.C by the learned Magistrate, pursuant to which, the respondent Police registered a case in Crime No.635 of 2013 on

02.08.2013 under Section 420, 423, 424, 427 and 506[i] IPC against six persons including the petitioners herein, challenging which, this quash petition has been filed.

4. The land in question is described as site No.25 measuring about 2071sq.ft. in a layout in Kaundampalayam Village, Coimbatore District. Uma Raghuraman [A1] purchased the land on 23.05.2006 from one Baghyam and others through their Power Agent Manickam and the Sale Deed was registered as Document No.2910 of 2006 on the file of the SRO, Vadavalli. Thereafter, Uma Raghuraman sold the land to Manjula by a Deed of Sale dated 04.06.2010, which document was registered as document No.2798 of 2010 on the file of the SRO, Vadavalli.

5. While so on 06.07.2012, Manjula received an Advocate notice issued on behalf of one N.Venkatachalam stating that he is the owner of the land and that, he has filed a suit in OS.No.54 of 2012 for declaring the Sale Deed document No.2910 of 2006 by which Uma Raghuraman purchased from Baghyam and others as null and void. After receipt of the notice, Manjula has filed a suit in OS.No.329 of 2013 against Uma Raghuraman for return of the sale consideration. Thereafter, Manjula has lodged a private complaint against Uma Raghuraman and others contending that she has been cheated.

6. Mr.R.Shanmugasundaram, learned Senior Counsel appearing for Manjula/defacto complainant submitted that the pendency of the civil suit is no bar for Police investigation.

7. This Court has no quarrel with this submission. Mr.N.Senthil Kumar, learned counsel appearing for the accused submitted that there is absolutely no deception at inception in this case, which is sine qua non for maintaining a complaint of cheating. Uma Raghuraman purchased the property by a Deed of Sale as early as in the year 2006 and till 2010, she was in enjoyment of the property and thereafter, she sold the property on 04.06.2010 to Manjula. Even in the Sale Deed dated 04.06.2010, it is averred that copies of the parent deeds of the property have been handed over to the purchaser. Further, the sale deed also indemnifies the purchaser against any claim of defective title.

8. Just because one Venkatachalam has filed a suit in the year 2012 and issued a notice, it cannot be stated that the property was sold to Manjula with an intention of deceiving her. In support of this preposition, Mr.Senthil Kumar, learned counsel appearing for the accused relied upon the judgment of the Hon'ble Supreme Court in Mohammed Ibrahim and Others Vs State of Bihar and Another [2009]8 SCC 751.

9. This Court agrees with the contention of the learned counsel for the accused that from the facts borne out in this case, there is no element of deception at inception. Uma Raghuraman purchased the property in 2006 and patta was also transferred into her name and thereafter in 2010, she sold the property to Manjula.

In OS.No.54 of 2012 filed by N.Venkatachalam, there are 15 defendants. According to N.Venkatachalam, the said property was purchased by him on 22.04.1967 from one Ramasamy Chettiar and that the legalheirs of Ramasamy Chettiar namely, defendants 1 to 10 have no authority to partition the property among themselves and sell a portion of the property to Uma Raghuraman in the year 2006.

10. It is not the case of N.Venkatachalam that there was impersonation or forgery committed by the defendants in suit in OS.No.54 of 2012. Thus, there is a civil dispute between N.Venkatachalam and the predecessors in interest of Uma Raghuraman. Under such circumstances, the sale by Uma Raghuraman to Manjula in the year 2010, much before the filing of the suit in OS.No.54 of 2012 by Venkatachalam cannot be said to be an act of cheating. In fact, it is seen that after purchasing the property from Uma Raghuraman on 04.06.2010, Manjula/defacto complainant herself has deposited the Title Deeds of the property to the State Bank of India, Sivakasi Branch on 13.04.2012 and has obtained mortgage loan.

11. In the result, this petition is allowed and the FIR in Crime No.635 of 2013 against the petitioners herein is hereby quashed. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To

1.The Inspector of Police,
Thudiyalur Police Station,
Coimbatore.

2.The Public Prosecutor,
High Court, Madras.

+ 1 cc to Mr.N. Senthilkumar, advocate sr.37117
+ 1 cc to Mr.L. Baskaran, Advocate sR.36590

CRL.O.P.No.26955 of 2014

KV(CO)
EU 28.07.15