

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.11.2016

CORAM

THE HON'BLE MR.JUSTICE P.N.PRAKASH

Cr1.O.P. No.14159 of 2011

1.T.C.Eswaramoorthy
2.Ravi
3.M.Murugaiyan

Petitioners/ Accused 1-3

vs.

1.State rep by
Inspector of Police
Veeranam Police Station
Salem District.

Respondent 1/ Complainant

2.M.Meiyalagan

Respondents

Criminal Original Petition filed under Section 482, Cr.P.C. to call for the records in Cr.No.375 of 2011 on the file of the Inspector of Police, Veeranam Police Station, Salem District and quash the same.

For petitioners Mr.R.Karthikeyan

For R1

Mr.C.Emalias

Additional Public Prosecutor

ORDER

This petition has been filed to call for the records in Cr.No.375 of 2011 on the file of the Inspector of Police, Veeranam Police Station, Salem District and quash the same.

2. Heard the learned counsel for the petitioners and the learned Additional Public Prosecutor appearing for the State.

3. On the complaint lodged by one Meiyalagan, the respondent police registered a case in Cr.No.375 of 2011 on 23.05.2011 u/s 420 IPC against the petitioners herein, challenging which they are before this Court.

4. It is the case of the de facto complainant that the petitioners floated a land allotment Scheme, under which, the prospective buyers were required to enter into an agreement and pay a certain sum of money every month for a period of 36 months or so, at the end of which, the prospective buyer will be allotted a plot measuring 1,200 sq.ft., based on drawal of

lots. It is alleged by the de facto complainant that he acted as an agent for himself and others and collected money from various persons and paid instalments to the petitioners, despite which the petitioners had failed to allot the plots.

5. The learned Additional Public Prosecutor submitted that investigation in this case has been transferred from the file of the Inspector of Police, Veeranam Police Station to the file of the District Crime Branch, Salem Rural.

6. Along with the quash application, Ravi/second respondent has filed an undertaking affidavit, wherein, it is stated as follows:

"3. The petitioners submit that based upon the said complaint, the 1st respondent herein had registered a case in Crime No.375/2011 under Section 420 IPC and had taken up the matter for investigation. The petitioners respectfully submit that prima facie the offences against the petitioners under section 420 IPC are not made out and the initiation of criminal proceedings is an abuse of process of law as the same is purely one of civil dispute. The Petitioners state that the delay was also due to the registration of the Criminal case against the 2nd Petitioner under S.3 of TNPPDL Act regarding damaging a pathway and burial ground while laying out the boundary stones and a case was also registered in Cr.No.93 of 2011 on the file of the Veeranam Police Station.

4. The petitioners state that they hereby undertake to complete the works of laying out boundary stones and handing over the plots to the beneficiaries within 9 months. It is submitted that as far as Velmurugan Annexe I is concerned there are totally 2950 beneficiaries and out of which plots have been allotted to 1250 persons and 300 persons have been refunded with the money and 1400 persons are yet to be allotted with plots. I submit that as far as Velmurugan Annexe II is concerned, there are totally 2500 beneficiaries and plots have been allotted to 1000 persons and 275 persons have been refunded with the money and 1225 persons have to be allotted with the said plots. I state that the delay had occurred in laying out the boundaries due to rain and other factors and it is not the intention of the petitioners herein to cheat the beneficiaries. In view of the above it is

prayed that this Hon'ble Court may be pleased to allow the quash petition and quash the FIR in Cr.No.375 of 2011 on the file of the respondents herein."

7. Mr.Karthikeyan, learned counsel for the accused submitted that the petitioners have never repudiated the claim of anyone and that, in the drawal of lots, if a person is not satisfied with the plot that comes to him, on some grounds like vasthu etc., he would immediately lodge a police complaint in order to force the petitioners to allot a plot of his choice. The learned counsel also submitted that this Court had not stayed investigation, but had only stayed the filing of the Final Report and therefore, the police would have by now completed the investigation and found the allegations to be untrue. That apart, he would also submit that the de facto complainant himself got his plot and that is why he has not entered appearance before this Court.

8. Be that as it may, in the opinion of this Court, this is not a fit case to quash the FIR at the threshold. However, the respondent police is directed to conduct an unbiased investigation, taking into consideration the undertaking that has been given by the petitioners, which has been extracted above. If the petitioners had complied with the aforesaid undertaking, it is needless to state that the FIR against them should be closed.

With the above observation, this petition is closed.

Sd/-
Asst.Registrar (CCC)

/true copy/

Sub Asst. Registrar

gms

To

1.The Inspector of Police
Veeranam Police Station
Salem District.

2.The District Crime Branch,
Salem (Rural).

3.The Public Prosecutor,
High Court, Madras.

1 cc to Mr.R. Karthikeyan, Advocate, Sr. 62054

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LRS (CO)

kk 28/11

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