

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.10.2017

CORAM:

THE HONOURABLE MR. JUSTICE M.S.RAMESH

CrI.O.P.No.4379 of 2017
and
CrI.M.P.Nos.3256 & 3257 of 2017

1.T.Prabha
2.T.Saran Kumar
3.T.Jalliyana
4.G.Naina George .. Petitioners

Vs.

The State Rep by
The Inspector of Police,
Central Crime Branch,
Anti Land Grabbing, Salem City,
Salem. .. Respondent

PRAYER: Criminal Original Petition filed under Section 482 Cr.P.C. praying to call for the records of Charge Sheet filed by the respondent in C.C.No.2 of 2017 in Cr.No.25 of 2013 pending on the file of the Special Court for Land Grabbing Cases, (Magistrate Level), Salem and quash the same.

For Petitioners : Mr.V.T.Balaji
For Mr.A.Murugaiyan Babu
For Respondent : Mr.C. Iyyapparaj
Additional Public Prosecutor.

ORDER

This petition is filed seeking to call for the records in C.C.No.2 of 2017 pending on the file of the Special Court for Land Grabbing Cases, (Magistrate Level), Salem and quash the same.

2.Heard the learned counsel appearing for the petitioners as well as the learned Additional Public Prosecutor appearing for the respondent.

3.The third and fourth petitioners are in live-in relationship. The first and second petitioners are the mother and brother respectively of the third petitioner. According to the learned counsel for the petitioners, the first petitioner

had entered into a sale agreement with the defacto complainant, who also happens to be father of the fourth petitioner herein. Since the defacto complainant had opposed the relationship between the third and fourth petitioner, he had given various false complaints against the petitioners herein. This is evidenced in the order dated 07.10.2013 passed in HCP No. 1931 of 2013.

4. Incidentally, the first petitioner herein had also filed a suit in O.S.No.227 of 2013 on the file of the III Additional District Judge Salem, seeking for specific performance to execute the sale agreement dated 11.04.2012 against the defacto complainant. In the said suit, the defacto complainant had also filed his written statement. Subsequently, the defacto complainant had given a complaint against the petitioners herein, before the Inspector of Police, Anti Land Grabbing Cell, Salem on 12.10.2013 and has also filed the habeas petition. Not being satisfied with the same, the present complaint has also been given wherein, he alleged that the sale agreement was forged by the petitioners herein.

5. Learned Additional Public Prosecutor opposed the submissions made by the learned counsel for the petitioners and submitted that there is no bar for criminal proceedings to go parallelly with the civil proceedings, since the defacto complainant has already raised several grounds in the written statement stating that his signature was forged. However, it is submitted that the proceedings in C.C.No.2 of 2017 is now pending before the Judicial Magistrate III, Salem.

6. It is seen that after filing a suit before the Civil Court for specific performance, the defacto complainant had chosen to give a criminal complaint. Whether or not the signature of the defacto complainant was forged, is a matter to be dealt with, in the civil case. It is the specific case of the petitioners herein that the sale agreement was executed by the defacto complainant and being dissatisfied with the relationship of the third and fourth petitioners, the defacto complainant had chosen to initiate these proceedings.

7. On a perusal of the confession of 161 statement as well as the charge sheet, it is seen that the offence alleged herein have not been clearly made out. While that being so, it could be safely concluded that the defacto complainant with malafide intention to harass the petitioner, had falsely given the complaint which culminated into framing of charges.

8. In my view, the petitioners need not undergo the ordeal of trial. Even assuming that the proceedings are permitted to be continued, no logical conclusion would be arrived at. In the result, the Criminal Original Petition stands allowed and the

proceedings in C.C.No.2 of 2017 presently pending before the learned Judicial Magistrate III, Salem stands quashed. Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

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To

1.The Judicial Magistrate III, Salem.

2.The Inspector of Police,
Central Crime Branch,
Anti Land Grabbing, Salem City,
Salem.

3.The Public Prosecutor,
High Court, Madras.

+1 cc to Mr.A.Murugaiyan Babu Advocate sr 76844

Cr1.O.P.No.4379 of 2017

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