

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :06.12.2017

CORAM:

THE HONOURABLE MR. JUSTICE M.S.RAMESH

Crl.O.P.No.9214 of 2012

in

Crl.M.P.Nos.1 & 2 of 2012

1. Pradeep Ranganathan

2. N.Natarajan

.. Petitioners

Vs.

1. The State of Tamil Nadu

Rep. by the Inspector of Police,
Central Crime Branch,
Chennai- 600 006.

2. R.Nandakumar

.. Respondents

PRAYER: Criminal Original Petition filed under Section 482 Cr.P.C. praying to call for the records pertaining to the charge sheet in C.C.No. 170 of 2012 on the file of the Judicial Magistrate, Alandur and quash the same.

For Petitioners : Mr. C.K.M.Appaji

For Respondent 1 : Mr. C.Iyyapparaj
Additional Public Prosecutor

For Respondent 2 : Mr.B.Kumar, Senior Counsel
for K.P.Anantha Krishnan

ORDER

This petition is filed praying to call for the records pertaining to the charge sheet in C.C.No. 170 of 2012 on the file of the Judicial Magistrate, Alandur.

2.The case of the prosecution is that the petitioners herein had executed a will dated 16.04.1997, in favour of M/s. Industrial Venture Capital Limited, which came to be registered as Document No.1069 of 1997 before the Sub Registrar, Neelankarai. Subsequently the petitioners herein had executed another sale deed dated 18.04.2006 which came to be registered as document no.3062 of 2006 in favour of Jeppiar Educational Trust. The purchaser in the first sale deed dated 16.04.1997 was the second respondent herein. Pursuant to the complaint given alleging that the petitioners herein had fraudulently executed the sale deed dated 18.04.2006 in favour of the Jeppiar Educational trust, the case came to be registered under sections 420 r/w.34 IPC in Crime No. 77 of 2006 by the first respondent herein. Pursuant to the investigation, charge sheet was laid for the offences under section 420 r/w.34 IPC against the

petitioners herein, which was taken on file in CC No.17 of 2007 on the learned Judicial Magistrate No.I, Poonamallee. Challenging the same, the petitioners are before this Court.

3. Heard, Mr. C.K.M.Appaji, learned counsel appearing for the petitioners, Mr.C.Iyyapparaj, Additional Public Prosecutor appearing for the first respondent and Mr.B.Kumar, Senior Counsel, appearing for the second respondent.

4. The only ground relied on by the petitioners is that they were not aware of the sale deed and that the first sale deed came to be registered based on impersonation and forged documents. The learned counsel for the petitioners also submitted that they have filed suit in O.S.No.432/2007 (old O.S.No.275/2006) on the file of the Additional District Judge, Fast Court No.I, Chengalpattu and by judgment and decree dated 04.01.2011, the sale deed dated 16.04.1997 was decided as null and void. Relying on the findings in the said judgment of the civil court, the learned counsel appearing for the petitioners submitted that since the civil court has found that the

first sale deed is said to have been executed by impersonation and forgery, the same is binding on the criminal court and therefore, it will not be justified in continuing with the proceedings.

5. In support of his contention the learned counsel appearing for the petitioners relied on the judgement of the Hon'ble Apex Court reported in **(2011) 2 Supreme Court Cases (Cri) 721 Radheshyam Kejriwal -vs- State of West Bengal and another**, and stated that the findings of the civil court while declaring the sale deed dated 16.04.1997 is null and void is pending on the trial court and the proceedings needs to be quashed.

6. Mr.B.Kumar, learned Senior counsel appearing for the second respondent on the other hand submitted that the judgment and decree of the trial court has already been challenged in A.S.No. 979 and 980 of 2012 before this court and the same is pending in which interim order of injunction restraining the petitioners herein in any way encumbering the suit property was also granted. According to the learned senior counsel, the judgement cited by the counsel for

the petitioners may not have any relevance since the matter arises out of Foreign Exchange Regulation Act, where the Supreme Court has held that the adjudication proceedings will not be a bar for any criminal prosecution levelled and therefore, the above judgement is not applicable to the facts of the present case. According to him, in the present case the petitioners have obtained judgment and decree from the civil court with regard to the declaration of the sale deed as null and void and the same is now the subject matter of the pending first appeal.

7. I have carefully considered the submissions of the learned counsel for the petitioners and the respondents and perused the judgment and decree of the trial court.

8. The only ground raised by the counsel for the petitioners is that in view of the judgment and decree of the civil court, the criminal proceedings needs to be quashed since there are categorical findings rendered by the trial court that the sale deed was registered by impersonation and forgery. It is not in dispute that the

first sale deed dated 16.04.1997 is a registered document. According to the learned senior counsel appearing for the second respondent , the original parent title deeds are in the custody of the second respondent. The second sale deed seems to have been executed on the basis of a paper publication made by the petitioners herein stating that the parent documents have been lost. The paper publication was of the year 2006. There is no explanation from the petitioners as to how the original parent deed was in possession of the second respondent herein. If at all, the petitioners feel that the civil court judgment and decree are in their favour, it is always open to them to use those documents during the course of trial for the purpose of establishing their case.

9. In view of the fact that the civil court judgment and decree has been appealed before the trial court , it would not be appropriate to rely on the findings therein and quash the proceedings.

10. Even otherwise, it cannot be stated that the findings of the civil court is binding on the criminal case. In this connection,

the learned Senior Counsel for the second respondent relied upon the judgment of the Hon'ble Apex Court in **AIR 2010 Supreme Court 3624 (Kishan Singh (D)through L.Rs.V.Gurpal Singh and Ors** and submitted that the findings of the facts recorded by the civil court would have no bearing on a criminal case. The relevant portion of paragraph 19 of the said judgment would read thus:

“19. Thus, in view of the above, the law on the issue stands crystallized to the effect that the findings of fact recorded by the Civil Court do have any bearing so far as the criminal case is concerned and vice versa. Standard of proof is different in civil and criminal cases. In civil cases it is preponderance of probabilities while in criminal cases it is proof beyond reasonable doubt. There is neither any statutory nor any legal principle that findings recorded by the court either in civil or criminal proceedings shall be binding between the same parties while dealing with the same subject matter and both the cases have to be decided on the basis of the evidence adduced therein. However, there may be cases where the provisions of Sections 41 to 43 of the Indian Evidence Act, 1872 dealing with the relevance of previous judgments in subsequent cases may be taken into consideration”.

M.S.RAMESH,J.

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11. In view of the aforesaid observations of the Hon'ble Supreme Court, the grounds raised by the petitioners herein does not deserve any consideration.

12. Under such circumstances, I do not find any merits in the petition. This Criminal Original Petitions is dismissed. Consequently connected miscellaneous petitions are closed.

06.12.2017

Index : Yes/No
Internet:Yes/No
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To

1. The Judicial Magistrate,
Alandur

2. The Inspector of Police,
Central Crime Branch,
Chennai- 600 006.

3. The Public Prosecutor
High Court, Madras.

Crl.O.P.No.30182 of 2015