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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.12.2019

CORAM:

THE HON'BLE MR.JUSTICE P.VELMURUGAN

Crl.O.P.No.10341 of 2013
and M.P.No.1 of 2013

1.R.Balaraman
2.B.Kalpana @ Bhavani
3.R.B.Saravanan

..Petitioners/Accused

Vs

1.The State
rep. by Inspector of Police
Central Crime Branch-II, Team I
Egmore, Chennai-600 008

2.D.Jones

..Respondents/Complainant
and 2nd Defacto Complainant

Prayer: Crl.O.P., filed under Section 482 of Cr.P.C., praying to call for the records pertaining to the proceedings in Crime No.73 of 2012 of the first respondent Police and quash the same.

For Petitioners : Mr.A.Muthukumar

For Respondents : Mr.R.Ravichandran,
Govt. Advocate (Criminal Side) for R1.
Mr.K.R.Ramesh Kumar for R2.

ORDER

This Criminal Original Petition is filed praying to call for the records pertaining to the proceedings in Crime No.73 of 2012 on the file of the first respondent Police and to quash the same.

2. The 1st respondent Police registered a case against the petitioners herein in Crime No.73 of 2012 for the offence under Sections 468, 471 and 420 IPC based on the complaint given by the 2nd respondent. During the investigation, the petitioners have filed the present Crl.O.P., seeking to quash the FIR, pending on the file of the 1st respondent.



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3. The learned counsel for the petitioners would submit that the dispute is civil in nature and already there is a civil suit pending before the civil court in O.S.No.158 of 2013 on the file of the Additional District Munsif, Poonamallee. During the pendency of the suit before the civil court, the 2nd respondent has filed the complaint. There was RDO enquiry and the report states that based on the settlement deed, the 3rd petitioner herein obtained patta in his name and the settlement deed is also acted upon. The learned counsel further submits that as to whether the settlement deed is valid or not and whether the vendor of the 1st and 2nd petitioners have title over the property or not, will be decided by the civil court, only after trial in the pending suit. As such, in the issue on hand, there is no criminal offence made out in the FIR and therefore, the same has to be quashed.

4. Though the learned counsel for the petitioners submits that he was instructed that 1st and 2nd petitioners died, there is no proof produced before this court and he argued for the 3rd petitioner.

5. The learned Government Advocate [Criminal Side] appearing for the 1st respondent would submit that already FIR has been registered, but investigation is at partly completed stage and due to stay granted by this court, while admitting the Criminal Original Petition, they could not proceed further with the investigation and charge sheet not yet filed. The investigation of the case, will only reveal as to whether the document has been forged or not. Hence, it is premature to state that the dispute is civil in nature or criminal in nature, but the same has to be revealed only after the investigation and not at this stage.

6. The learned counsel appearing for the 2nd respondent/defacto complainant would submit that the 1st and 2nd petitioners forged the document and executed settlement deed in favour of the 3rd petitioner/son of the 1st and 2nd petitioners and they do not have any title over the property; even their predecessors did not have title for the property even though patta is granted in their favour. But subsequently, the patta has been cancelled. In any event, since the petitioners have forged the document and based on the forged document, they tried to grab the land of the defacto complainant, and in such circumstances, the defacto complainant/2nd respondent, preferred a complaint before the 1st respondent. The 1st respondent also registered the case and only the investigation will reveal whether the petitioners have forged the document against the



a bar to the civil court to proceed further in the matter in accordance with law.

12. The Crl.O.P., is disposed of with the above direction. Consequently, connected M.P., is closed and the stay is vacated.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

1.The Additional District Munsif,
Poonamallee.

2.The Inspector of Police,
Central Crime Branch-II, Team I.
Egmore, Chennai-600 008.

3.The Public Prosecutor,
High Court, Chennai.

+1 cc to M/s.K.R.Ramesh, Advocate Sr.No. 101532

AKM/05.12.19/4P-5C /

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