

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.04.2019

CORAM:

THE HON'BLE MR.JUSTICE G.K.ILANTHIRAIYAN

CRL.O.P.No.5612 of 2019 and
Crl.M.P.Nos.3182 & 4914 of 2019

1.A.Fakrudhin Ali Ahamed
2.A.Yasmin

... Petitioners

Vs.

1. State Rep. by,
The Inspector of Police,
Central Crime Branch II,
Chennai.

2. R.Krishnamurthy

... Respondents

PRAYER:

Criminal Original Petition filed under Section 482 of Cr.P.C, to call for the First Information Report dated 03.11.2018 registered in Crime No.193 of 2018 on the file of the 1st respondent Police viz., Inspector of Police, Central Crime Branch II, Chennai District and quash the same.

For Petitioners: Mr.M.Mathivanan
For R1 : Mr.M.Mohamed Riyaz
Additional Public Prosecutor
For R2 : Mr.R.Manickavel

ORDER

This Criminal Original Petition has been filed to quash the FIR in Crime No.193 of 2018 on the file of the 1st respondent Police.

2.It is seen that the petitioners are arrayed as 3rd and 4th accused in Crime No.193 of 2018. On perusal of the documents, it shows that the petitioners are purchasers of the disputed property.

3.The case of the defacto complainant is that, he is the owner of the property and he was impersonated by A1 and A1 executed a Power of Attorney in favour of A2. On the strength

of the Power of Attorney dated 06.03.2016, the 2nd accused has executed the sale deed in favour of the petitioners/A3 & A4.

4.It is also curious to note that, the 1st respondent registered the case as against the 5th accused viz., HDFC Bank, Anna Salai, Chennai also and while purchasing the property, the petitioners availed loan from the 5th accused to construct house in the disputed property. On the strength of the sale deed, the 5th accused/HDFC Bank also executed a Mortgage deed and the petitioners/A3 and A4 availed the loan to construct house. Accordingly, they also constructed the house. Admittedly, the petitioners are residing there for the past two years.

5.Therefore, the 1st respondent is directed to consider the above facts and circumstances and delete the name of the petitioners/A3 & A4 and the 5th accused in the FIR and complete the investigation and file a final report as against A1 and A2. In so far as recovery of possession is concerned, the petitioners have already filed a suit for declaration. Therefore, the 2nd respondent/defacto complainant is at liberty to agitate the issue before the civil Court, in respect of the recovery of possession of the property, in the manner known to law.

6.With the above said direction, this Criminal Original Petition is disposed of. Consequently, the connected miscellaneous petitions are closed.

Sd/-
Deputy Registrar(CJ Conf.)

//True Copy//

Sub Assistant Registrar

vv2

To

1. The Inspector of Police,
Central Crime Branch II, Chennai.

2. The Public Prosecutor, High Court, Madras.

+1cc to Mr.R.Manickavel, Advocate, S.R.No.36646

+1cc to Mr.M.Mathivanan, Advocate, S.R.No.36003

CRL.O.P.No.5612 of 2019

BS (CO)
CS/20/05/2019