

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.07.2019

CORAM

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

CRL.O.P No.18897 of 2019

and

Crl.M.P Nos.9626 & 9627 of 2019

1.L.Shanthi
2.K.K.Ponnusamy
3.K.Thenmalar
4.K.SanthanalakshmiPetitioners/Accused No.5 to 8

.Vs.

1.The Inspector of Police,
Land Grabbing Cell, DCB,
Erode District. 1st Respondent/Complainant

[Crime No.2/2018]

2.P.Arumugam 2nd Respondent/De facto Complainant

PRAYER : Criminal Original Petition filed under Section 482 of Criminal Procedure Code, to call for the records in C.C.No.596 of 2019, on the file of the learned Judicial Magistrate No.II, Erode ad quash the same.

For Petitioners : Mr.S.Jeyakumar
For R 1 : Mr.M.Mohamed Riyaz, APP
For R 2 : Mr.Guruprasad

ORDER

This Criminal Original Petition has been filed seeking to quash the proceedings in C.C.No.596 of 2019, on the file of the learned Judicial Magistrate No.II, Erode. There are 8 accused persons in this case and the petitioners are A-5 to A-8.

2.The case of the prosecution is that through a family partition deed dated 30.04.1987 and 14.07.2007, A-2 was allotted land in S.No.179/1 to an extent of 81.05 cents. Out of the total extent of 81.5 cents, 17-5/8 cents were sold to the de facto complainant on 02.06.2004. The de facto complainant thereafter approached the Bank for the purpose of availing a

loan and it was brought to his notice that A-2 along with other accused persons have registered a Power of Attorney dated 17.02.2016, by appointing A-1 as his agent. By using the said Power of Attorney document, a Sale Deed has been executed in favour of A-4, who is the wife of A-2. Since the de facto complainant had already purchased the property measuring 17-5/8 cents, he filed a complaint before the respondent Police and an FIR came to be registered in Cr.No.3 of 2018. After investigation, a Final Report has also been filed before the Court below and the same has been taken on file in C.C.No.596 of 2019.

3.The learned counsel for the petitioners submitted that the petitioners who have been added as A-5 to A-8 have nothing to do with the property which was purchased by A-4 wife of A-2. The learned counsel submitted that even as per the case of the prosecution, A-2 had executed a Power of Attorney in favour of A-1 and the property was sold in favour of A-4, and therefore no criminal intention can be attributed against these petitioners. The learned counsel further submitted that the 2nd petitioner who has been added as A-6, is a document writer. The learned counsel concluded his arguments by submitting that the petitioners are already facing trial in a connected case in C.C.No.597 of 2019, before the same Court and the Court below ought not to have taken cognizance against the petitioners in this case.

4.The learned Additional Public Prosecutor on instructions submitted that the 1st petitioner is none other than the wife of Sakthivel (A-1). The learned counsel submitted that the main charge against the petitioners is that they have also been involved in the criminal conspiracy and the petitioners 1,2 & 4 are the very close relatives of A-1 & A-2. The learned counsel submitted that the petitioners can establish their defense before the Court below and there is no ground to interfere with the proceedings at this stage.

5.The learned counsel appearing on behalf of the de fact complainant apart from reiterating the stand taken by the learned Additional Public Prosecutor, also submitted that the 1st petitioner who is the wife of A-1 had complete knowledge about the transaction and the petitioners 1,2 & 4 had already conspired and purchased the property in the adjacent land, which is the subject matter in C.C.No.597 of 2019, and in those documents the concerned petitioners have not properly identified the boundaries and there is a concerted effort to grab the property belonging to the de facto complainant. That is the reason why the petitioners 1, 2 & 3 were made as accused. Insofar as 2nd petitioner is concerned, he was made as an accused on the ground that he was a documentary writer and he was also part of the conspiracy in creating the fraudulent document.

6.This Court has carefully considered the submissions made on either side and the materials available on record.

7.Except for some general allegations against petitioners 1,3 & 4, this Court does not find any materials against these petitioners. Admittedly, Sale Deed was executed in favour of A-4 and no document has been executed in favour of A-5, A-7 or A-8. These petitioners are attempted to be roped in as an accused on the basis of general allegations without any materials. In the considered view of this Court, the continuation of the proceedings as against A-5, A-7 & A-8 is an abuse of process of Court and it requires interference by this Court in exercise of its jurisdiction under Section 482 of Cr.P.C.

8.Insofar as 2nd petitioner is concerned, he is the document writer and since there is a charge of criminal conspiracy, the same will get more clearer only during the course of trial and this Court does not want to interfere with the proceedings insofar as the 2nd petitioner [A-6] is concerned.

In the result, the proceedings in C.C.No.596 of 2019, is quashed insofar as A-5, A-7 & A-8 are concerned. Accordingly, the Criminal Original Petition is allowed insofar as petitioners 1, 3 & 4 are concerned, and it is dismissed insofar as 2nd petitioner is concerned.

The Court below is directed to complete the proceedings in C.C.No.596 of 2019 as expeditiously as possible. Consequently, the connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

KP

To

1.The Inspector of Police,
Land Grabbing Cell, DCB,
Erode District.

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2.Judicial Magistrate No.II,
Erode.

3.Public Prosecutor,
Madras High Court,
Chennai.

+lcc to Mr.Guruprasad, Advocate sr.63959

CRL.OP.No.18897 of 2019

pvs (co)
nr 18/09/2019



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