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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.06.2019

CORAM

THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

Crl.OP No.29940 of 2014

and

MP No.1 of 2014

1.L.Devaraj

2.L.Kumar

3.Rajeswari

4.Sarojini

5.Saraswathi

6.Vasanthakumar

7.Anandakumar

8.Rajamani

9.Raviganesh

... Petitioners

.Vs.

1.The State rep.by

Inspector of Police,

District Crime Branch,

(Anti Land Grabbing Special Cell),

Tiruppur District.

Crime No.16 of 2013

2.R.Sivakumar

... Respondents

PRAYER: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to call for the records pertaining to the FIR in Crime No.16 of 2013 on the file of the 1st respondent police quash the same.

For Petitioners : Mr.N.Manokaran

For R-1 : Mr.C.Raghavan,
Government Advocate

ORDER

This Criminal Original Petition has been filed seeking to quash the FIR in Cr.No.16 of 2013, pending on the file of the respondent Police.



2. The Complaint was given by the de facto complainant on the ground that a sale agreement has been executed on 04.01.2013, in favour of A-2 by including S.F.No.103/1. In the same way, a power of attorney was also executed in favour of A-1, by showing the S.F.No.103/1. This according to the de facto complainant amounts to the petitioners attempting to grab the property and therefore constitutes offences under various provisions of Indian Penal Code and Section 82 of the Registration Act, 1908.

3. MR.N.Manokaran, learned counsel for the petitioners submitted that it was an inadvertent mistake on the part of the petitioners to have shown S.F.No.103/1 instead of S.F.No.103/2. The learned counsel further submitted that immediately on coming to know about the mistake, the petitioners have executed a deed of cancellation of sale agreement on 10.07.2013 and deed of cancellation of the power of attorney on 12.07.2013 and thereby rectified the defect and hence no offence has been made out against the petitioners. The learned counsel further submitted that for an inadvertent mistake committed by the petitioners, which has subsequently been rectified, the FIR is being kept pending for the last 7 years by the respondent Police.

4. The learned counsel for the petitioners further submitted that even if the allegations made in the Complaint are taken as it is, it does not make out any offence of forgery under Section 467 and 471 of IPC or the offence of cheating under Section 420 of IPC.

5. In order to substantiate his arguments, the learned counsel for the petitioners relied upon the judgment of the Hon'ble Supreme Court in Mohammed Ibrahim and Others .Vs. State Of Bihar and Another reported in (2009) 8 SCC 751.

6. Heard the learned Government Advocate appearing on behalf of the respondent Police.

7. The facts of the case extracted supra makes it clear that the FIR which ought to have been closed after the execution of the cancellation of deed, after the petitioners realised the inadvertent mistake committed by them, is kept pending for 6 long years. The pendency of the FIR itself is an abuse of process of law and the petitioners should not be saddled with the burden of facing criminal proceedings in a frivolous issue, as found in the present case.

8. This Court has no hesitation to interfere with the FIR pending on the file of the 1st respondent and accordingly,



the FIR in Cr.No.16 of 2013 is hereby quashed and this Criminal Original Petition is allowed. Consequently, the connected miscellaneous petition is closed.

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Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

To

1.The Inspector of Police,
District Crime Branch,
(Anti Land Grabbing Special Cell),
Crime No.16 of 2013,
Tiruppur District.

2.The Public Prosecutor,
High Court, Madras.

+1cc to M/s.N.Manokaran, Advocate Sr.54223

Cr1.OP No.29940 of 2014

bp[co]
srg 21/08/2019