



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 24.09.2019

CORAM :

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

WEB COPY

Crl OP(MD)No.2907 of 2015

and

MP (MD)No.1 of 2015

1.Emily Richard

2.Pearlin Vincent

... Petitioners/A1 and A2

Vs.

1.The State,

Rep.by Inspector of Police,

City Crime Branch, Trichy City.

... Respondent/Complainant

2.D.Muralikrishnan

... Respondent/Defacto Complainant

Prayer : Criminal Original Petition is filed under Section 482 of Criminal Procedure Code, to call for the records relating to Cr.No.17 of 2014 pending on the file of the first respondent police and quash the same insofar as the petitioners concerned.

For Petitioners : Mr.A.N.Ramanathan

For Respondents : Mr.A.Robinson,
Government Advocate (crl.side) for R1

For R2 : No appearance

ORDER

This criminal original petition has been filed to quash the impugned FIR registered at the instance of the second respondent herein for the offences under Sections 465, 471, 420 and 506(i) of IPC.

2.Heard the learned counsel for the petitioners and the learned Government Advocate (crl.side) appearing for the first respondent. Though the second respondent has been served and his name is also printed in the cause list, he has not chosen to enter appearance.

3.It is seen from the materials on record that the property in question belonged to three persons namely Muthukrishnan, Prathap and A.Palaniappan. They executed a registered powers of attorney in favour of the first petitioner/A1 namely Emily Richard. The first



petitioner on the strength of the said powers of attorney, executed a sale deed dated 15.06.2007 in favour of her daughter namely, the second petitioner Pearlin Vincent. Even though the power given in favour of the first petitioner worked itself out, one of the principal namely Prathap/A3 had sold the very same property in favour of the Thiru.P.R.Shanmugam/A5 on 18.07.2007. According to the petitioners, they were unaware of this transaction. Unaware of the same, the second petitioner/A2 entered into an agreement with the defacto complainant Thiru.D.Muralikrishnan on 12.07.2011. When the encumbrance certificate was verified by the defacto complainant, he came to know that there were two entries in respect of the land in question. One entry is in favour of the second petitioner (A2) and the other entry is in favour of the A5/P.R.Shanmugam. Therefore, there was negotiation between the parties and following the payment of a certain sum of money to A2, she vide document dated nullified the sale transaction dated 15.06.2007 (Doc.No.5381 of 2011) on 01.08.2011. In other words, whatever title that flowed to the second petitioner was cancelled by the said document dated 01.08.2011. On the same date, the fifth accused executed a sale deed dated 01.08.2011 in favor of the defacto complainant through power of attorney. Few years after this transaction, the defacto complainant discovered that a part of the land conveyed to him was under encroachment. That led to the registration of the impugned FIR.

4.A bare reading of the aforesaid facts would clearly indicate that no case is made out against the petitioners herein. The second petitioner herein executed a deed of cancellation on 01.08.2011 only because the defacto complainant herein parted with certain sum of money. The fact remains that a pucca sale deed was standing in the name of the second petitioner. Only because the defacto complainant parted with certain sum of money, she chose to cancel the same. If the deal worked out by the defacto complainant had come into certain difficulties, the petitioners cannot obviously be blamed. Of course, it is for A3 to A5 to contest the FIR. This order quashing the impugned FIR will remain confined only to the petitioners herein. In other words, the impugned FIR is quashed as far as the petitioners herein/A1 and A2. It is made clear that the observations made in this order only for the purpose of disposal of this petition alone. It will not have any bearing on the culpability of the other accused.

5.This criminal original petition stands partly allowed. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS-III)

/TRUE COPY/



1. THE INSPECTOR OF POLICE,
CITY CRIME BRANCH, TRICHY CITY.

2 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1 CC to M/s.B.PRASANNA VINOTH, Advocate (SR-89068[F] dated
25/09/2019)

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JM/10.10.2019/3P/4C