

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.09.2020

CORAM:

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

CRL.O.P.No.6121 of 2020
and Crl.M.P.Nos.3427 & 3428 of 2020

1.Priyadharshini
W/o.Vasudevan.
2.Mallika
W/o.Isaiamuthan

...Petitioners/Accused 4 and 5

Vs.

1.State, Represented by
The Inspector of Police
Land Grabbing Special Cell
Namakkal District.

2.Jayapragasam
S/o. Veerappan

....Respondents/Complainant

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C. praying to call for the records and quash the proceedings in C.C.No.2 of 2020 pending on the file of the learned Judicial Magistrate, Paramathi against the petitioners.

For Petitioners : Mr.L.Sharadh Kumar

For Respondents

For R1 : Mr.S.Karthikeyan
Additional Public Prosecutor

For R2 : No appearance

ORDER

This petition has been filed to quash the proceeding in C.C.No.2 of 2020 on the file of the learned Judicial Magistrate, Paramathi, thereby taken cognizance for the offences punishable under Sections 120B, 419, 467, 468, 471, 447 and 506(ii) of IPC r/w Section 82 of the Registration Act as against the petitioners.

2. The learned counsel appearing for the petitioners would submit that the petitioners are arrayed as A4 and A5. On the complaint lodged by the second respondent, the first respondent registered a case as against A1 to A5 and filed final report for

the offences punishable under Sections 120B, 419, 467, 468, 471, 447 and 506(ii) of IPC r/w Section 82 of the Registration Act. He further submitted that the first petitioner is the Document Writer and the second petitioner is the Sub Registrar. The case of the prosecution is that the second respondent purchased a land and the same was registered vide document No.570 of 1982. Thereafter he settled in Srilanka and he also put up compound wall in his property. While he visited India in the year 2010, he came to understand that the said land was cleaned by the third parties. While verified the revenue records, it shows that the first accused had purchased the said property by way of hiring two Srilankan repatriated to impersonate as the second respondent and his brother. Hence the complaint.

2.1. Insofar as the petitioners are concerned they are nothing to do with the offences as alleged by the prosecution. The allegations as against the petitioners are that the second respondent owned property which situated at Namakkal. The first accused without any title over the said property, executed sale deed in favour of his partner. It was happened with the help of the second and third accused. The fourth and fifth accused are the Document Writer and the Sub Registrar and helped the accused persons to register the said document. The duty of the Document Writer is to prepare the document on the request of the persons those who need the same. When the first accused approached her to prepare the sale deed, after gone through the document, she prepared the sale deed. Therefore she did not know whether the original owner of the property had been impersonated by him.

2.2. Likewise the second petitioner is being the Sub Registrar, who has the duty to register the document and not to sit over the document and enquire about the identity of the owner of the property. After verifying the identity card produced by them, she registered the document. Therefore, there is absolutely no nexus to other accused persons by the petitioners. He also relied upon the judgment of this Court dated 25.09.2019 passed in CrI.O.P.(MD).No.2827 of 2018 in the case of Thangaraj Vs. State and anr., to support of his contention and prayed for quashment of the entire proceedings.

3. Per contra, the learned Additional Public Prosecutor appearing for the first respondent submitted that on the complaint lodged by the second respondent, the first respondent registered a case in Crime No.24 of 2011 for the offences under Sections 420, 419, 467, 468 and 471 of IPC as against five accused persons in which, the petitioners are arrayed as A4 and A5. The fourth accused is the Document Writer and the fifth accused is the Sub Registrar at the time of occurrence. The second respondent purchased the property comprised in Survey No.212 ad measuring 14 cents in Namakkal, in the year 1982 vide

sale deed registered in document No.570 of 1982. He also put up a compound wall in and around the property and settled in Srilanka. He used to visit his native place and visited the property regularly. While being so, in the year 2010, the second respondent came to understand that the said property was cleaned by some third parties. On verification, he came to know that the accused persons, impersonated the second respondent and his brother and created sale deed in their favour by committing fraud and forgery. The fourth and fifth accused had knowledge about the same and conspired along with other accused persons and registered the document. Therefore, there are specific allegations as against the petitioners and the points raised by the petitioners cannot be considered by this Court that too under Section 482 of Cr.P.C. It is the matter for trial by let in evidence and prayed for dismissal of this quash petition.

4. Heard Mr.L.Sharadh kumar, learned Counsel appearing for the petitioners and Mr.S.Karthikeyan, learned Additional Public Prosecutor appearing for the first respondent. Though notice served to the second respondent, no one is appeared on behalf of the second respondent by person or through pleader.

5. There are totally five accused persons in which, the petitioners are arrayed as A4 and A5. The case of the prosecution is that the second respondent purchased a land ad measuring 14 cents comprised in Survey No.212 in Namakkal, in the year 1982, vide registered document No.570 of 1982. After put up the compound wall in and around the property, he settled at Srilanka. When he visited the property, he came to understand that the property was registered in favour of the accused persons with the help of the fourth and fifth accused, who were being the Document Writer and Sub Registrar.

6. The first petitioner is being the Document Writer, she is no way connected with the alleged transaction between the other accused persons. On submitting the documents by the accused persons, the first petitioner prepared the sale deed document on the request of the accused persons. The first petitioner after obtaining necessary details and parent documents, she prepared the sale deed. Except the preparation of the sale deed, the first petitioner is nothing to do with the other accused persons. It is seen from the statements recorded from the list of witnesses, there is absolutely no iota of evidence to prove the conspiracy between the petitioners and other accused persons. Further no one has spoken about the role of the petitioners herein. The first petitioner is not a competent person to verify the identity of the accused persons, whether they are the original owners or not. Her duty is only to prepare the document as requested by the parties and there is

absolutely no evidence to connect the petitioners to other accused persons for the alleged conspiracy.

7. Insofar as the second petitioner is concerned, she is being the Registrar of the Sub Registrar Office, she verifies whatever the proof given by the persons to prove their identity. After verifying the same, the Sub Registrar registered the document. It is seen that the document was registered with the help of the second petitioner herein. Except the said allegation, to connect the other accused, no one has spoken about the involvement of the second petitioner herein and also there is absolutely no material to show that the second petitioner conspired with other accused persons to cheat the defacto complainant.

8. Insofar as the other offence under Section 52 of Registration Act is concerned, it is relevant to extract the provisions under Section 52 of the said Act as follows :-

"52. Duties of registering officers when document presented.-(1) (a) The day, hour and place of presentation, ⁵⁷ [the photographs and finger prints affixed under section 32A,] and the signature of every person presenting a document for registration, shall be endorsed on every such document at the time of presenting it;

(b) a receipt for such document shall be given by the registering officer to the person presenting the same; and

(c) subject to the provisions contained in section 62, every document admitted to registration shall without unnecessary delay be copied in the book appropriated therefor according to the order of its admission.

(2) All such books shall be authenticated at such intervals and in such manner as is from time to time prescribed by the Inspector-General."

9. Accordingly, the Sub Registrar cannot sit over the document and enquire the title. His job is limited to discharge his official duty while registering the document. The second petitioner is being the Sub Registrar, she has no role to play in the crime committed by the other accused persons. Over all, both the petitioners being Document Writer and the Sub Registrar, they are no way connected with the offence committed by the other accused persons. Therefore, the entire proceedings cannot be sustained as against the petitioners as such, they

need not to go for ordeal of trial and the entire proceeding is nothing but clear abuse of process of Court.

10. In view of the above discussion, this Criminal Original Petition stands allowed and the proceedings in C.C.No.2 of 2020 on the file of the learned Judicial Magistrate, Paramathi, is hereby quash as against the petitioners alone. The trial Court is directed to complete the trial as against the other accused persons within a period of twelve months from the date of receipt of copy of this Order. Consequently, connected miscellaneous petitions are also closed.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

1. The Judicial Magistrate,
Paramathi.
2. The Inspector of Police
Land Grabbing Special Cell
Namakkal District.
3. The Public Prosecutor
High Court,
Madras.

CRL.O.P.No.6121 of 2020 and
Crl.M.P.Nos.3427 & 3428 of 2020

SRA(CO)
RV(10/11/2020)

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