

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.02.2020

CORAM

THE HON'BLE MR.JUSTICE M.DHANDAPANI

Crl. O.P. No. 19423 of 2014
and Crl. M.P. No. 1 of 2014

1.D.Saravanan
2.Indhumathi

..Petitioners

Vs

Soundarajan

.. Respondent

PRAYER : This petition has been filed under Section 482 of the Code of Criminal Procedure, to call for the records pending on the file of the Judicial Magistrate, No.IV, Vellore, Vellore District in C.C.No.371/2014 Crl.M.P.No.1644/2014 in R.C.S.No.3/2014 and quash the Criminal proceeding.

For Petitioners: Mr.V.Parthiban

For Respondent : Mr.T.Surendran

O R D E R

This Criminal Original Petition has been filed to call for the records pending on the file of the Judicial Magistrate, No.IV, Vellore, Vellore District in C.C.No.371/2014 Crl.M.P.No.1644/2014 in R.C.S.No.3/2014 and quash the Criminal proceeding.

2. The facts, as could be culled out from the present petition is that the petitioners approached the respondent herein for the purchase of a certain piece of land in Survey Nos.361, 361/1, 361/4, 361/5, 361/6 of Adukkamparai Village of a total extent of 1.07 acres and through A-6, the power agent, for a sale consideration of Rs.30 lakhs. In acceptance of the said transaction, amounts to the tune of about Rs.20 Lakhs were paid. However, it was represented that due to passage of time in the payment of sale consideration, the value of the land had escalated by Rs. 7 Lakhs and it was informed that A-3 would shell out the said amount and get the sale deed executed. However, curiously, while A-3 paid Rs.5 Lakhs, had got the land sale deed executed in the name of his mother, A-4, and in pursuant to the same had paid the amount of Rs. 5 Lakhs. Though the amounts have been paid and sale deed handed over to the respondent, however, it is alleged that since no steps have been taken by the petitioners to lay the house plots, a complaint was preferred before the learned Judicial Magistrate, Vellore in

Crl.M.P.No.1894/2013 and a parallel proceeding before the police in Crime No.826 of 2012 was also filed. However, the said private complaint u/s 203, 200 Cr.P.C. was dismissed which necessitated the filing of a revision in Crl. R.C.No.45/2013. The lower Appellate Court confirmed the order of the trial court by dismissing the revision petition vide order dated 21.01.2016 and since no appeal having been filed, the said order became final.

3. The respondent, complaining that the complaint has not culminated in the registration of FIR and investigation, filed Crl. O.P. No.8874/2012. However, the said petition was dismissed holding that the investigation revealed that the dispute is of civil nature and, therefore, no direction for registration of a criminal case could be given and the petitioner was directed to pursue his remedies in accordance with law. However, it is averred by the petitioners that suppressing the above direction of this Court, a Crl. O.P. No.31063/2012 was filed which culminated in a direction to the respondent therein to register and investigate into the matter, which led to the registration of the case in Crime No.826/2012, which was investigated and closed as mistake of fact, as the dispute was civil in nature.

4. Against the said closure of the complaint, the respondent herein filed a protest petition, which was taken cognizance of the trial court by issuance of summons u/s Sections 448, 294 (b) and 506 (ii) IPC. Aggrieved by the said order, the present petition for quash has been filed.

5. Mr. V.Parthiban, learned counsel appearing for the petitioners, while highlighted the various rounds of judicial proceedings as also the police complaint, submitted that the trial court, without adverting to the report filed by the police referring the case a mistake of fact, has erroneously entertained the protest petition by taking it on file as C.C.No.371 of 2014, which is not only contrary to the order passed by the lower appellate court in the revision, but also the order passed by this Court in Crl. O.P. No.8874/2012 and submitted that the trial court ought not to have entertained the protest petition, but ought to have relegated the protest petitioner/respondent herein to work out his remedies in accordance with law. Therefore, he prayed for quashment of the order of the trial court.

6. Mr.T.Surendran, learned counsel appearing for the respondent, without prejudice to the case of the respondent, submitted that this Court may grant liberty to the respondent to work out his remedy before the civil forum in accordance with law.

7. In the above backdrop of the factual matrix as also the various judicial proceedings as adverted to above, which is not in dispute, as also the submission of the learned counsel on either side, this petition is allowed by quashing the proceedings on the file of the learned Judicial Magistrate in

C.C.No.371/2014 and Crl. M.P. No.1644/2014 in R.C.S.No.3/2014 as against the petitioners herein with further liberty to the respondent herein to work out his remedies before the civil forum in accordance with law. Consequently, connected Criminal Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CS-VI)

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Sub Assistant Registrar

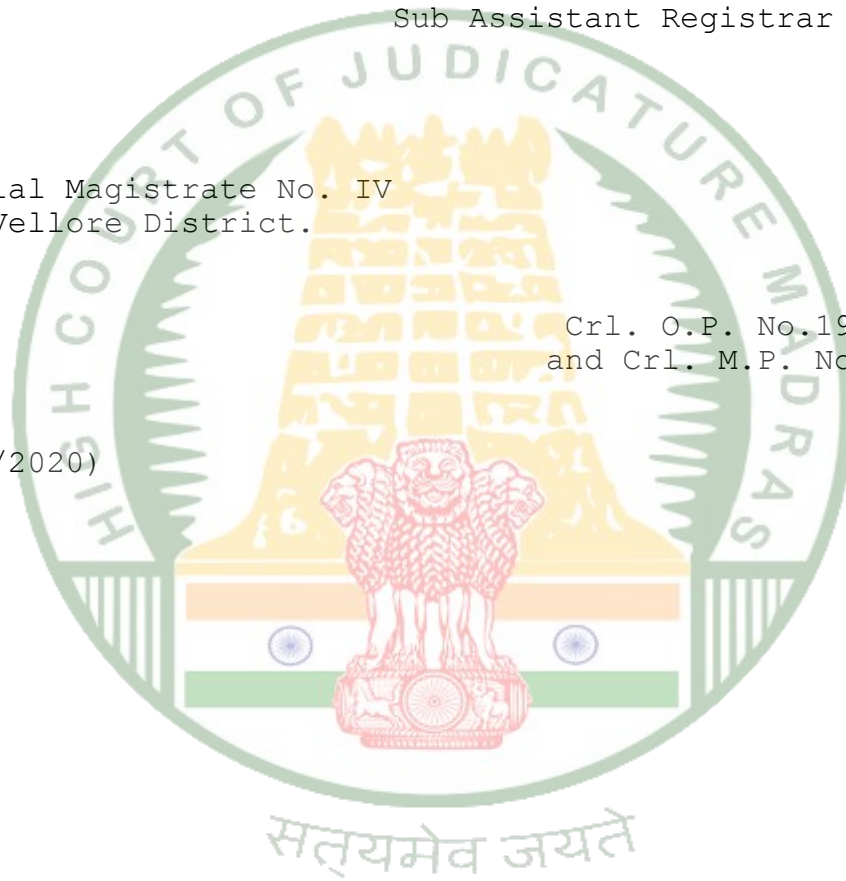
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To

The Judicial Magistrate No. IV
Vellore, Vellore District.

Crl. O.P. No.19423 of 2014
and Crl. M.P. No. 1 of 2014

BR(CO)
GMY(03/11/2020)



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