



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 08.12.2020

CORAM:

WEB COPY

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

Crl.O.P.(MD).No.20585 of 2016

and

Crl.M.P(MD)Nos.10465 and 10466 of 2016

1.Thavamani

2.Arulsamy

... Petitioners/Accused Nos.1&2

Vs.

Rajmohammed

... Respondent/Complainant

PRAYER: This Criminal Original Petition has been filed under Section 482 of Criminal Procedure Code, to call for the records relating to C.C.No.219 of 2016 on the file of the Judicial Magistrate, Pudukottai, quash the same in respect of the petitioners and allow this Criminal Original Petition.

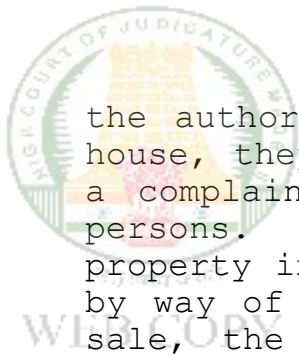
For Petitioners: Mr.A.R.L.Sundaresan
Senior Counsel
for Mr.J.Anandkumar

For Respondent : Mr.K.Balasundaram

O R D E R

This Criminal Original Petition has been filed to quash the proceedings in C.C.No.219 of 2016 on the file of the learned Judicial Magistrate, Pudukottai, as against the petitioners.

2.The learned Senior Counsel appearing for the petitioners submitted that there are totally eight accused, in which the petitioners are arrayed as A1 and A2. According to the respondent herein, the petitioners have approached the defacto complainant and stated that they are absolute owners of the property in Plot Nos.239-B, 239-C, which was approved by the Deputy Director, Town and Country Planning as housing plots vide approval No.15/87. Based on the representation, the defacto complainant has purchased both the house sites for valid sale consideration. Subsequently, he found that the original plots were earmarked for shops and he cannot construct the house and the layout submitted by the accused was forged one with the help of the other accused. Further, it is alleged that when the defacto complainant has produced the same to



the authorities concerned for planning permission to construct the house, they rejected the same. Therefore, the respondent has lodged a complaint as against the petitioners as well as other accused persons. He further submitted that the petitioners purchased the property in Plot Nos.234B and 234C at KLKS Nagar in Pudukottai Town by way of registered sale deed, dated 15.07.1996. At the time of sale, the petitioners' vendor informed that both the plots were house sites. In fact, the second petitioner has also filed a Writ Petition before this Court in W.P(MD)No.23194 of 2015 for reclassifying the land in plot Nos.239B and 239C. He further submitted that subsequently the said plots were reclassified as house plots. The building plan submitted by the complainant was also approved and thereafter, the defacto complainant has constructed the houses and the same were sold out to other persons by registered sale deed, dated 05.12.2016, 02.03.2017 and 05.06.2017. Suppressing those facts, now the defacto complainant has filed this false complaint. Hence, he sought for quashing the entire complaint.

3.Heard the learned counsel for the petitioners and the learned counsel for the respondent and perused the materials available on record.

4.The respondent has initially lodged a complaint before the concerned jurisdictional police and enquired and the same was closed. Therefore, he filed a private complaint before the learned Judicial Magistrate and the same was taken cognizance for the offences under Sections 120B, 147, 420, 465, 463, 471 and 474 IPC as against the accused persons. The petitioners are arrayed as A1 and A2.

5.The crux of the complaint is that the petitioners have sold out the building property to the defacto complainant by a registered sale deed dated 27.01.2014 for valid consideration. Thereafter, the respondent found that both the house plots were originally classified as shops and the plan permission was rejected by the authority concerned. Thereafter they cheated the defacto complainant.

6.On perusal of the records, it is seen that the second petitioner also filed a Writ Petition before this Court in W.P.(MD) No.23194 of 2015 for reclassification of the land in plot No.239-B and 239-C at KLKS Nagar in Pudukottai Town namely subject property in the complaint. While pending the Writ Petition, the Director, Town and Country Planning has classified the shops into house plots. Thereafter, the shops were also reclassified as house plots. In fact, the respondent also constructed the house in the said house plots. After constructing the house, the respondent /defacto complainant also sold out all the three houses by way of registered sale deed dated 05.12.2016, 02.03.2017 and 05.06.2017 to the third parties. All the three sale deeds registered vide document Nos.5454/2016, 539/2017 and 1615/2017 by the concerned Sub Registrar



7.It shows that the entire allegations in the complaint are false and now, the defacto complainant himself completed his construction and sold out the entire house to the third party. Therefore, the present impugned complaint is nothing but clear abuse of process of law and cannot be sustained as against the petitioners. That apart now the entire house plots are constructed and also sold out to the third party.

8.In view of the above discussion, the Criminal Original Petition is allowed and the proceedings as against the petitioners herein in C.C.No.219 of 2016 on the file of the Judicial Magistrate, Pudukottai is quashed. Consequently, the connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-II)

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/ /2021

Sub Assistant Registrar(CS)

To

The Judicial Magistrate,
Pudukottai.

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