



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)

Date : 24.11.2020

PRESENT

The Hon`ble Mr.Justice G.K.ILANTHIRAIYAN

CRL OP(MD). No.20918 of 2016

and

CrI.M.P.(MD)Nos.10652 & 10653 of 2016

WEB COPY

1. B. R.Gopal
2. Ramakrishnan
3. Bagavathi Vadivel
4. Jeyakumar

... Petitioners

Vs.

- 1.The Inspector of Police,
Special Cell For Land Grabbing,
Theni District.

- 2.Navroji PonmaniBalammal

... Respondents

PRAYER :- This Petition is filed under section 482 Cr.P.C., to call for the records relating to the impugned charge sheet in C.C No. 2 of 2015 on the file of the Learned Judicial Magistrate (Special Court for land Grabbing Cases) Theni and quash the same.

For Petitioners : Mr.K.Appadurai

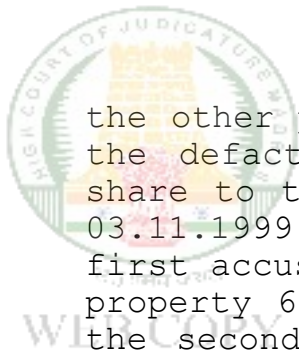
For R-1 : Mr.K.Suyambulinga Bharathi,
Government Advocate (CrI.Side)

For R-2 : Mr.R.Shankar Ganesh

O R D E R

This Criminal Original Petition has been filed to quash the impugned charge sheet in C.C No. 2 of 2015 on the file of the learned Judicial Magistrate (Special Court for land Grabbing Cases) Theni.

2. The learned counsel for the petitioners would submit that there are six accused, in which, the petitioners are arrayed as A3 to A6. The second respondent lodged a complaint alleging that she along with the father of the first accused viz. Varadarajan and his family members jointly purchased the land with an extent of 6.23 acres in Ayyan S.No.1305 situated at Melmangalam Village, Periyakulam Taluk, Theni District, by way of a registered sale deed, dated 21.05.1997 vide Document No.559/1997. Thereafter, joint patta was issued to the purchasers and each purchaser entitled to have their share ad-measuring 89 cents. The nature of the land is a vacant land. While being so, the first accused Rajeswaran, son of



the other purchasers is said to have created false documents as if, the defacto complainant is said to have sold her undivided 1/7th share to the first accused by way of a registered sale deed, dated 03.11.1999 vide Document No.2370/1999. Further alleged that the first accused is said to have partitioned the larger extent of joint property 6.23 acres during 2008 and one of the shares belonging to the second respondent covered in D-Schedule of partition deed was said to have been allotted to the first accused in favour of the second accused/ Manoharan, by way of a registered sale deed, dated 07.02.2011 vide document No.359/2011. In turn, the second accused sold out the said property in favour of the petitioners herein/ A3 to A6, by way of a registered sale deed, dated 12.05.2011 vide Document No.1232/2011 for Rs.11,125/-. Further alleged that all the accused persons colluded and only with the intention to grab the defacto complainant's property by impersonation, forgery, cheating by fraud, creating false document.

3. The learned counsel for the petitioners would submit that the petitioners are nothing to do with the property. Originally the property was purchased by seven members. Even according to the defacto complainant, the first accused impersonated the defacto complainant and created the sale deed, as if the defacto complainant sold out her share in favour of the first accused by a registered sale deed, dated 03.11.1999 vide Document No.2370/1999. Thus, the alleged occurrence had taken place on 03.11.1999 by the first accused and for the said transaction, the petitioners no way connected with the first accused and they are also strangers to A1 and A2. In turn, the first accused sold out the said property, after a period of 12 years, in favour of the second accused by a registered sale deed, dated 07.02.2011 vide Document No.359/2011. At that time also the petitioners no way connected to the said transaction. In turn, the second accused sold out the said property in favour of the petitioners herein, on 12.05.2011, vide document No.1232/2011 for a valid consideration. Therefore, the petitioners are the *bona fide* purchasers and they are nothing to do with the first accused as alleged by the defacto complainant. Even according to the case of the prosecution, the petitioners did not involve in the impersonation, forgery or fabrication of any documents. Therefore, the entire allegations made only as against A1 and as such none of the ingredients of the offence attracted as against the petitioners herein and prayed the petition to be allowed.

4. Per contra, the learned counsel for the second respondent / defacto complainant would submit that all the accused persons colluded each other and have impersonated_ the defacto complainant and created a sale deed in favour of the first accused. In turn, the first accused sold out the said property in favour of the second accused. Immediately, after purchasing the said property, the second accused executed a sale deed in favour of the petitioners herein, in order to create encumbrance over the property.

<https://hccservices.courts.gov.in/hccservices/>

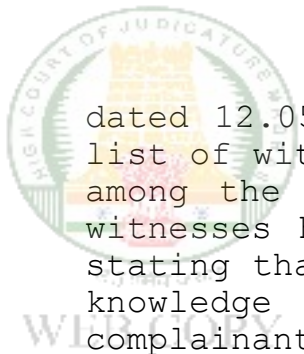


offences under Sections 120B, 419, 465, 468, 471, 420 IPC @ 120B, 419, 420, 423, 465, 468, 471 I.P.C. He would further submit that though the petitioners are not the party to the sale deed, they stand in the name of the first accused as well as the second accused, colluded each other and conspired together and thereafter, cheated the defacto complainant. Therefore, the petitioners are liable to be prosecuted and prayed for dismissal of the petition.

5. The learned Government Advocate (Crl.side) appearing for the first respondent would submit that totally there are six accused, in which, the petitioners herein are arrayed as A3 to A6. The petitioners are charged for the offences 120B, 419, 420, 423, 465, 468, 471 I.P.C. The first accused created a sale deed impersonating the defacto complainant in his favour in respect of the share owned by the defacto complainant from the total extend of 6.23 acres of vacant land comprising in Survey No.1305, situated at Melmangalam village, Periyakulam Taluk, Theni District. Thereafter, the second accused purchased the said property only with an intention to create encumbrance over the property and subsequently, the petitioners herein purchased the same from the second accused and create encumbrance over the property and therefore, there are material evidence to attract the offence as against the petitioners herein and all the accused conspired together and committed the offence and hence, he prayed for the dismissal of the petition.

6. Heard the learned counsel for the petitioners, the learned Government Advocate (criminal side) for the first respondent and the learned counsel for the second respondent and perused the materials available on record.

7. It is seen that totally there are six accused, in which, the petitioners herein are arrayed as A3 to A6. Even according to the defacto complainant, the subject property purchased jointly with 7 purchasers to an extend of 6.23 acres vacant land comprising in Survey No.1305, situated at Melmangalam village, Periyakulam Taluk, Theni District, by way of a registered sale deed, dated 21.05.1997 vide Document No.559/1997. In respect of her share alone, the first accused created sale deed as if the said property was sold to him by the defacto complainant by impersonating the defacto complainant vide Document No.2370/1999, dated 03.11.1999. The said sale was happened on 03.11.1999, at this juncture, the petitioners no way connected to the first accused or the second accused. The petitioners are completely strangers and they are no way connected to the said transaction. In turn, the first accused sold out the said property, after the period of 11 years viz., on 07.02.2011, to the second accused by a registered sale deed. In fact, the said transaction also the petitioners are not a party and no way connected with the said transaction. Thereafter, the petitioners are being the bona fide purchasers, they intended to purchase the property from the second accused for a valid sale consideration of Rs.1,23,20,000/- and they purchased the property vide Document No.1232/2011,



dated 12.05.2011. On perusal of the statements recorded from the list of witnesses all are stereo type and all the statements are one among the same. Including the second accused and her supporting witnesses have stated that the first sale, dated 03.11.1999 itself stating that the petitioners have purchased the said property with a knowledge that the first accused impersonated the defacto complainant and created a sale deed in his favor. Except the said statement, to substantiate the said statement there is absolutely no other material to connect the petitioners for the charge under section 120B IPC. As discussed above, the first transaction had taken place on 03.11.1999, in which, the petitioners are not the parties and they are also strangers to the first accused. After the first sale deed executed in favour of A1, the second transaction had taken place only after 11 years viz., 07.02.2011, in which, the first accused executed a sale deed in favour of A2 by way of a registered sale deed. Admittedly, the petitioners are not the party to the earlier two transactions and they are also no way connected with them. Therefore, they had absolutely no knowledge about the sale deed in favour of A1 as well as the sale deed in favour of A2 by the first accused. The petitioners are being the bona fide purchasers, they intended to purchase the said property from the second accused for a valid sale consideration. Accordingly, they purchased the said property by a registered sale deed dated 12.05.2011 vide Document No.1232/2011. That apart, the petitioners are the subsequent purchasers and they had no knowledge about the first sale in favour of A1, since it was taken place on 03.11.1999. Further, the petitioners also no way connected to the defacto complainant and completely they are strangers. There are no other material to attract the offence of criminal conspiracy, collusive, forgery, impersonation or cheating as against the petitioners herein. Therefore, the entire impugned proceedings as against the petitioners, is nothing but an abuse of process of law and it cannot be sustained as against the petitioners herein. Hence, this Court is inclined to quash the charge sheet in C.C No. 2 of 2015.

8. Accordingly, this criminal original petition is allowed and the impugned charge sheet in C.C.No.2 of 2015 on the file of the Learned Judicial Magistrate (Special Court for land Grabbing Cases) Theni, is hereby quashed. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar (Crl.Side)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)



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Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

TO

1. The Judicial Magistrate
(Special Court for land Grabbing Cases)
Theni.
2. The Inspector of Police,
Special Cell For Land Grabbing,
Theni District
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

ORDER
IN
CRL OP(MD) No.20918 of 2016

Date : 24.11.2020

PM (CO)
NR (08/12/2020) 5P : 4C