



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 12.02.2020

CORAM:

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

Crl.O.P(MD)No.7280 of 2016

and

Crl.M.P. (MD)Nos.3693 and 3694 of 2016

WEB COPY

1.Buvaneswari

2.David ... Petitioners/Accused 1&2

Vs.

1.The State of Tamilnadu,
through Inspector of Police,
District Crime Branch,
Nagercoil,
Kanyakumari District. ...1st Respondent/Complainant

2.Lalitha ...2nd Respondent/Defacto Complainant

PRAYER: Petition filed under Section 482 Code of Criminal Procedure, to call for the records in C.C.No.189 of 2015 on the file of the Judicial Magistrate, Eraniel and quash the same.

For Petitioners: Mr.C.Dhanaseelan

For R1 :Mr.A.Robinson
Government Advocate (Crl.side)

For R2 : No appearance

ORDER

The petitioners are figuring as accused in C.C.No.189 of 2015 on the file of the Judicial Magistrate Court, Eraniel for the offences under Sections 120(b), 467, 468, 471 and 420 of IPC.

2.The second respondent herein is the defacto complainant.

3.The case of the prosecution is that the petitioners herein had executed a sale deed dated 11.06.2011 in favour of the second respondent herein conveying the property in question. The case of the defacto complainant is that the petitioners did not have the requisite title to convey the property in question in her favour. She would also allege that there are quite a few litigations pending in respect of the property. But in the sale deed in question, there is no reference whatsoever to the pending litigations. The second respondent would further allege that she



has been put to wrongful loss by the petitioners herein. According to her, the petitioners herein have suppressed material facts.

4.The learned counsel appearing for the petitioners reiterated all the contentions set out in the memorandum of ground. He would also point out that even though litigations are pending in respect of the property in question, till date, no adverse decree has been passed against the petitioners. Therefore, the cause of action for the second respondent is yet to arise.

5.I consciously refrain from going into those contentions. Suffice it to say that the petitioners will have to necessarily establish their innocence only before the Court below in a regular trial. Therefore, leaving open the petitioner's contentions and defences, the criminal original petition stands dismissed.

6.Considering the overall facts and circumstances of the case, the personal appearance of the petitioners before the Court below stands dispensed with. The learned trial Magistrate shall insist on the personal appearance of the petitioners only when it is absolutely necessary and imperative. The petitioners shall be called upon to appear in person before the trial Court at the time of answering the charges and at the time of examination under Section 313 of Cr.P.C., and at the time of pronouncement of Judgment. On all other occasions, the petitioners can be represented through their counsel. It is made clear that this Court has not gone into the merits of the matter. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

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To

1.The Inspector of Police,
District Crime Branch,
Nagercoil,

<https://hcservices.ecourts.gov.in/hcservices/> Kanyakumari District.



2.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to MR.C.DHANASEELAN, Advocate (SR-6222[F] dated
13/02/2020)

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