



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 07.10.2021

PRONOUNCED ON : 21.10.2021

CORAM

THE HON'BLE Mr. JUSTICE C.V.KARTHIKEYAN

CrI.O.P.No.21705 of 2016
and CrI.M.P.No.10052 of 2016

1.Gopi @ Seenivasan
2.Dhanraj
3.Perumal

...Petitioners

Vs.

1. The Inspector of Police
Lawspet Police Station,
Lawspet, Pondicherry.
2. The Sub-Inspector of Police
Lawspet Police Station,
Lawspet, Pondicherry.
3. Nirmala

...Respondents

Prayer: Criminal Original Petition filed under Section 482 Cr.P.C., to call for the records in C.C.No.134 of 2014 filed by the Inspector, Lawspet Police Station, Lawspet, Pondicherry, on the file of the Judicial Magistrate No.I, Puducherry and quash the same.

For Petitioners .. Mr.U.Karunakaran

For R1 & R2 .. Mr.Balamurugane,
Public Prosecutor Puducherry.

For R3 .. Mr.Prakash Adiapadam

ORDER

This Criminal Original Petition has been filed under Section 482 Cr.P.C., to quash the Calendar Case in C.C.No.134 of 2014 now pending on the file of the Judicial Magistrate No.I, Puducherry.



2.The 3rd respondent had lodged a complaint before the 2nd respondent / the Sub-Inspector of Police, Lawspet Police Station, Lawspet, Puducherry, on 28.07.2014 against the petitioners herein for alleged offence under Section 420 IPC read with 34 IPC.

3.It was stated that the petitioners had sold Plot Nos. 94, 95, 96 and 97 totally measuring 1600 Sq.ft in R.S.No.235/6A in Saram Revenue Village on 08.09.2006 by way of registered Sale Deed. It was further stated that the Tahsildhar, Oulgarat Taluk, Puducherry had conducted a survey and stated that the available extent is only 800 Sq.ft in Plot Nos.96 and 97 and therefore, the property had been sold without having title over the entire land of 1600 Sq.ft.

4.After investigation, the 1st / 2nd respondent filed final report before the learned Judicial Magistrate No.I, Puducherry, who had taken cognizance of the same under Section 420 IPC read with 34 IPC. Seeking to quash the said calendar case, the present petition has been filed by the petitioners / accused.

5.Heard arguments advanced by Mr.U.Karunakaran, learned counsel for the petitioners and Mr.Balamurugane, learned Public Prosecutor, Puducherry for the 1st and 2nd respondents and Mr.Prakash Adiapadam, learned counsel for the 3rd respondent.

6.It is the contention of Mr.U.Karunakaran, learned counsel for the petitioners that the petitioners had sold a total extent of 1600 sq.ft of land in Plot Nos.94, 95, 96 and 97 in R.S.No.235/6A in Saram Revenue Village by way of a registered Sale Deed dated 08.09.2006. Possession had been given to the 3rd respondent. Each plot measured 400 sq.ft. It was vacant land, but also land covered with thorns and bushes. At the time of purchase, survey was not possible. Thereafter, the 3rd respondent appears to have had issues with the adjacent owner only with respect to Plot No.94. That was in the year 2012. Thereafter, the assistance of the Tahsildhar was sought to survey and measure the land. The Tahsildhar, Oulgarat Taluk, Puducherry, had given an opinion that at the time of purchase, the 3rd respondent had not measured the property and there was a shortfall of 800 sq.ft. It was stated that originally the land was under the holding of one Selvanathan Armel who had sold the land to Nagammai Bai, who had again sold the land to the 1st petitioner herein Gopi @ Seenivasan who had then sold the land to the 3rd respondent. It was the opinion of the Tahsildhar, Oulgarat Taluk, that the Selvanathan Armel had cheated Nagammai Bai who had cheated the 1st petitioner and the 3rd respondent was the ultimate victim. He had given an advise to the 3rd respondent to lodge a police complaint.



7.The entire issue is actually civil in nature. The Tahsildhar, Oulgarat Taluk, Puducherry is not the competent authority to advice anybody to give a police complaint and had that advice not been given, the parties would have settled the issues among themselves. It is not as if, the 1st petitioner had sold lands to which he was not entitled. He had a sale deed in his favour executed by Nagammai Bai, who inturn had a sale deed in her favour executed by Selvanathan Armel. None of them had surveyed or measured the lands, but they had title documents in their hands. It is also seen that the lands were covered with bushes and therefore nobody had surveyed the lands. If at all the 3rd respondent had a grievance, the only option available to the 3rd respondent is to sue the 1st petitioner herein, in view of the indemnity clause always found in every sale deed. It is also seen that the 2nd and 3rd petitioners are not connected either with the sale deed or with the negotiations for the sale deed.

8.The entire complaint stems from a mischievous opinion given by the Tahsildhar, Oulgarat Taluk. There has been no progress in the calendar case for the past six years. It is purely an harassment for the petitioners herein. They have not created a sale deed indicating that they are the owners of the land. They had only transferred the lands which they had purchased. They had not altered the schedule.

9.As a matter of fact, during the course of investigation, the sale deed dated 08.09.2006 had not even been seized by the 1st and 2nd respondents. The chances of conviction are therefore extremely remote. This is a fit case to interfere with the proceedings and consequently, the calendar case in C.C.No.134 of 2014 on the file of the learned Judicial Magistrate No.I, Puducherry is quashed.

10.In view of the above observations, the present Criminal Original Petition is allowed. Consequently, the connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

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To

1. The Inspector of Police,
Lawspet Police Station,
Lawspet, Pondicherry.
2. The Sub-Inspector of Police,
Lawspet Police Station,
Lawspet, Pondicherry.
3. The Public Prosecutor,
High Court of Madras.
4. The Judicial Magistrate No.I,
Puducherry.

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and Crl.M.P.No.10052 of 2016

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