

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.04.2021

CORAM:

THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

CRL.O.P.No.6538 of 2021 and
Crl.M.P.Nos.4343 & 4344 of 2021

1.N.Sekar
2.S.Thulasi

... Petitioners/Accused 15 to 16

Versus

1.STATE: rep. by,
Inspector of Police,
CCB XVIII Team,
Egmore, Chennai-600 008.
(Crime No.391/2012).

...1st Respondent/Complainant

2.M.Selvi

... Respondent/Defacto Complainant

PRAYER: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, call for the records relating to the impugned charge sheet in C.C.No.5062 of 2020 on the file of the Special Court-II, for Exclusive Trial of Land Grabbing cases/Metropolitan Magistrate Court at Perimet, Chennai-3, quash the same in so far as it relates to the petitioners/A.15 and A.16 concerned.

For Petitioners : Mr.K.Premkumar

For 1st Respondent : Mr.M.Mohamed Riyaz,
Additional Public Prosecutor

ORDER

The petitioners/accused Nos.15 & 16, who are facing trial in C.C.No.5062 of 2020, for offence under Sections 120(b) IPC, 419, 467, 468, 471, 420, 506(i) IPC (3 counts) before the learned Special Court-II, for Exclusive Trial of Land Grabbing Cases/Metropolitan Magistrate Court at Perimet, Chennai, have filed the present Quash Petition.

2.The contention of the petitioners/A15 & A16 is that the petitioners are only acted as power agent of one Karunanithi, who is the 14th accused in this case and they did not execute any document and create any encumbrance to the property of the 2nd

respondent. The power document has been executed as document No.1557/2016. As regards A14 is concerned, he has purchased the property in the year 2010 from A4. In this case, A1 to A3 by creating forged documents, sold the property of the 2nd respondent in the name of Selva Vinayaga Nagar to A4 and others, despite they have no right over the same.

3.The learned counsel appearing for the petitioners submitted that the petitioners have been falsely implicated in this case and they are ready to file an affidavit pursuant to the power of the attorney that they would not further alienate or cause any encumbrance to the property of the 2nd respondent. Further, one of the person named Palani, who purchased the plot in the said property, had filed suit in O.S.No.6254 of 2018 before the learned XIV Assistant Judge, City Civil Court, Chennai against the petitioners and his principal. The 1st petitioner as a power agent of A14 has filed declaration suit in O.S.No.2550 of 2019 against Palani and one G.K.Sivakumar. Therefore, the petitioners have not involved in any of the offence as alleged by the prosecution and prayed for quashing the proceedings.

4.On the other hand, the learned Additional Public Prosecutor appearing for the 1st respondent Police submitted that A14 and other accused had sold the property of same plots to several persons mentioning plot Nos.28 and 28(A). Likewise for several plots, A4 intentionally purchased the same in the year 2010 and used the petitioners to project it as though it is a genuine transaction. In this case, the 2nd petitioner/A16 is the wife of the 1st petitioner/A15 and she has only signed as witness to the power document. All the accused joined together and sold the property of the 2nd respondent by creating forged documents, despite they did not have any right over the same. It is the case of conspiracy where each persons have sold the property separately and committed the forgery and cheated the 2nd respondent. Therefore, he prayed for dismissal of the above petition.

5.This Court has considered the rival submissions and perused the materials available on record.

6.In this case, a group of persons jointed together in creating the forged documents and executed the sale deeds for the property, which have been already sold to some others and thereby, created encumbrance to the property and cheated the 2nd respondent and also received huge sums of money. The 1st petitioner/A15 now claims that he only acted as power agent of A14. The 2nd petitioner/A16 is only witness to the power document No.1557/2016 executed in favour of her husband/1st petitioner/A15.

7. With regard to the 1st petitioner/A15 is concerned, other than this power document, he also pursuing the suit in O.S.No.2550 of 2019 before the learned XIV Assistant Judge, City Civil Court at Chennai, on behalf of A14. Merely, it cannot be said that the 1st petitioner/A15 had only acted as power agent and it is also not proper. It is seen that the suit in O.S.No.2550 of 2019 is being prosecuted by the 1st petitioner on the strength of power of attorney in document No.1557 of 2016. In view of the above, the complicity of the 1st petitioner/A15 with the other accused namely A14 is well founded and hence, this Court is not inclined to quash the proceedings against him. Accordingly, this Criminal Original Petition stands dismissed insofar as 1st petitioner is concerned.

8. With regard to the 2nd petitioner/A16 is concerned, it is admitted she is only witness to the power document No.1557 of 2016. Since she being the wife of the 1st petitioner/A15, she has been implicated in this case and nothing more is attributed against her. Hence, the proceedings in C.C.No.5062 of 2020, on the file of the Special Court-II, for Exclusive Trial of Land Grabbing cases/Metropolitan Magistrate Court at Perimet, Chennai is quashed against the 2nd petitioner/A16 alone. Accordingly, this Criminal Original Petition is allowed insofar as the 2nd petitioner/A16 is concerned. Consequently, the connected Criminal Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

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To

1. The Special Court-II for Exclusive Trial of
Land Grabbing cases/Metropolitan Magistrate Court,
Periamet, Chennai-3.

2. The Inspector of Police,
CCB XVIII Team,
Egmore, Chennai-600 008.

3. The Public Prosecutor,
High Court, Madras.

+1cc to M/s.K.Premkumar, Advocate SR.23949

CRL.O.P.No.6538 of 2021

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srg 29/06/2021