



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.06.2021

CORAM:

THE HON'BLE MR. JUSTICE M. NIRMAL KUMAR

CRL.O.P.No.6994 of 2021

and

Crl.M.P.Nos.4667 & 4668 of 2021

1.D.Riaz

2.Mumtaj

... Petitioners

Versus

1.State Rep.by

The Inspector of Police,
District Crime Branch,
Kanchipuram District,
Kanchipuram.

2.R.Kanniammal

... Respondents

Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to call for the records in C.C.No.121 of 2017 on the file of the learned Judicial Magistrate - II, Chengalpattu.

For Petitioners : Mr.C.V.Sridharan

For Respondents : Mr.A.Damodharan,
Government Advocate (Crl.side) for R1

ORDER

The petitioners, who are the accused in C.C. No.121 of 2017, before the learned Judicial Magistrate No.2 for the offences under Sections 120B, 423, 420, 465, 468, 471 and 506 (ii) of IPC., have filed this quash petition.

2.It is the contention of the petitioners that they have purchased the property in S.No.104/1B to an extent of 2242 sq.ft., from the second respondent/de-facto complainant and his son Nagaraj for a sum of Rs.2,44,000/-, which was paid in cash, by sale deed dated 11.10.2010 registered as document No. 4724 of 2010. As the petitioners are residing far away from the property, they could not monitor the property regularly, they came to know that the defacto complainant and her son, after sale of the property to the petitioners, are attempting to grab it. Therefore, the first petitioner filed a civil suit in O.S.No.05 of 2011 before the District Munsif Court, Thirukalukundram, which is pending. While this being so, on 29.08.2011, a complaint was given by the defacto complainant



against the petitioners as if they have cheated her by getting a sale deed executed from her instead of a mortgage deed. Based on the said complaint, a case in Crime No. 107 of 2011 was registered. The first petitioner therefore approached this Court and filed Crl.OP No. 20663 of 2011 seeking anticipatory bail and it was granted. The second petitioner also filed an Anticipatory Bail before the learned District and Sessions Judge, Chengalpet in Crl.MP No. 1466 of 2011 and she was also granted anticipatory bail. Thereafter, the first petitioner sold the property through his power agent S. Moorthy in favour of Manjula by a registered sale deed dated 24.03.2011 registered as document No. 1268 of 2011.

3.As regards the second petitioner, she is no way connected with any transactions. She is the wife of the first petitioner, however, allegations have been made as if she involved in cheating and as though the second petitioner, threatened the de-facto complainant not to proceed in the case.

It is further submitted that a civil dispute has been given a criminal colour and the petitioners have been falsely implicated in this case.

4.It is seen from the complaint given by the defacto complainant/ second respondent that the land in Survey No.104/1 measuring 8 cents was purchased by her husband Late. Ramaiyan from the sons of Vedagiri Naicker by a registered sale deed dated 10.02.1983 registered as document NO. 225 of 1983. While so, after the death of Ramaiyan, the defacto complainant and her sons have approached the first petitioner for a loan of Rs.2,00,000/- and she has agreed to mortgage the land measuring 2442 square feet (5 1/2 cent) in Survey No.104/1B. However, in the guise of preparing a mortgage deed, the petitioner along with another accused have entered into a criminal conspiracy and prepared a sale deed. The sale deed was prepared by V. Srinivasan, Advocate. In the said deed, the defacto complainant and her son alone were shown as owners by omitting the name of the other legal heir Vedanayagi @ Chitra. Accordingly, on 03.09.2010. Further, the petitioners also obtained a false legal heir certificate dated 03.09.2010 from the Tahsildar, Ambattur. and by using the same, registered the document on the file of Sub-Registrar, Thirukazhukundram. Though loan of Rs.2,44,000/- was mentioned in the document, the petitioners have paid only Rs.20000/- and obtained the signature. When the defacto complainant and her son asked the petitioners as to why a sale deed was registered in the guise of a mortgage deed, the defacto complainant and her son were threatened with dire consequences.

5.The learned Government Advocate (Crl.side) appearing for the first respondent would submit that documents have been collected during investigation and they will be produced during trial. The petitioners may therefore be directed to co-operate with the trial court and a direction may be issued to the trial court to complete the trial within the stipulated time.



6.It is seen that after due investigation, charge sheet has been filed against 10 persons, in which A1 and A2 in conspiracy with other accused forged document, using the forged documents had taken away the property of the second respondent/de-facto complainant. The trial Court finding that a prima facie evidence is available against the petitioners and other accused had taken the case on file and summons were issued to the petitioners. At this stage the petitioners have filed this quash petition on various points which are factual in nature and they have to be decided in trial.

7.Considering the rival submissions and materials, the investigation is completed and charge sheet is filed before the Lower Court, this Court is of the view that the grounds urged in this petition have to be considered only during trial.

8.In view of the same, this Court is not inclined to entertain the quash petition. Considering that the case is pending from the year 2012 and the offence has been allegedly committed in the year 2011 and the petitioners and other accused have been protracting the trial and not allowing the progress of the trial in this case for one reason or other, this Court directs the Trial Court to complete the trial within a period of six months, after the normal functioning of the Court is resumed. The trial of the case may be taken up on day to day basis. If the petitioners or other accused indulged in any dilatory tactics, the Trial Court take any action against the accused and complete the trial within the stipulated time.

9.With the above direction, the Criminal Original Petition is disposed of. Consequently, the connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(III)

//True copy//

Sub Assistant Registrar

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To

1.The Judicial Magistrate,
Chengalpattu.

2.The Inspector of Police,
District Crime Branch,
Kanchipuram District,
Kanchipuram.

3.The Public Prosecutor,
High Court, Madras.

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