



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.11.2021

CORAM

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

CRL.O.P.NO.14102 OF 2017

AND

CRL.M.P.NO.9015 OF 2017

1. Ajit George

2. Michale

... Petitioners

.Vs.

1. The State Rep. By its
The Inspector of Police,
Hosur Town Police Station,
Krishnagiri District.
Crime No.292 of 2012.

2. Venkatesh

... Respondents

PRAYER:-

Criminal Original Petition filed under Section 482 of Criminal Procedure Code, praying to call for all the records and quash all the proceedings FIR in Crime No.292 of 2012 now pending investigation on the file of the 1st Respondent.

For Petitioners : Mr.J.Daniel

For Respondents : Mr.S.Vinoth Kumar
Government Advocate(Crl. Side)
For R1

R2 - No appearance

ORDER

This Criminal Original Petition has been filed to call for the entire records and quash all the proceedings of FIR in Crime No.292 of 2012 pending investigation on the file of the 1st Respondent.



2. The petitioners have been arrayed as A4 and A5 in the complaint. The crux of the allegation in the FIR is that A1 being the Power of Attorney holder of the Trust, agreed to sell the property to the defacto complainant and received a sum of Rs.77,50,000/- on 14.02.2009. Further, the defacto complainant was ready to pay the balance of sale consideration. However, A1 had dealt with the property and sold the same to one K.Sakthivel on 17.02.2009 without the complainant's consent and knowledge. The sale deed executed by the 1st accused/Power of Attorney holder in favour of K.Sakthivel of his own accord is null and void, the same will not bind the complainant under the law. The complainant's further case is that the accused 1 to 5 having malafide and dishonest intention to cheat the complainant, made the defacto complainant to believe the sale deed as genuine documents and entered into criminal conspiracy with the other trustees of the so called trust and with some other illegal advisors with a view to have the entire advance amount of Rs.77,50,000/- financed by the complainant herein. Moreover, the first accused helped the subsequent purchaser of the properties by name K.Sakthivel to obtain Chitta in his favour from the Revenue authorities, thus defrauded the complainant by the accused. Thereby, A1 colluded with all other accused and defrauded the defacto complainant.

3. This Court normally will not interfere with the FIR. When the allegations in the FIR do not show any complicity of the other accused with the crime. There is no point in continuing the investigation as against the other accused. The main allegation is attracted as against A1 for alleged cheating and receipt of money. There is no allegation made in the FIR except contending that other accused conspired with A1, other than that, there is no whisper what so ever made against the present petitioners. Therefore, this Court is of the view that the continuation of investigation against the present petitioners is not valid when there is no allegation made in the FIR. Hence, the complaint as against the present petitioners alone is quashed and the investigation shall continue as against the other accused.

4. Accordingly, this Criminal Original Petition is allowed. Consequently connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

msv/nr



To

1. The Inspector of Police,
Hosur Town Police Station,
Krishnagiri District.

2. The Public Prosecutor
High Court, Madras.

CRL.O.P.NO.14102 OF 2017 AND
CRL.M.P.NO.9015 OF 2017

RSV(CO)
PBS/22/12/2021