



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.11.2021

CORAM

THE HONOURABLE MR.JUSTICE N. SATHISH KUMAR

Cr1. O.P. No.15382 of 2017
and Cr1.M.P.Nos.9628 & 9629 of 2017

1.Samiappan

2.Jaganathan

3.Gomathi

..Petitioners

Vs.

1.State by Inspector of Police
Perundurai Police Station,
Perundurai, Erode District.
Crime No.749/2007

2.Seerangasamy

..Respondents

PRAYER: Criminal Original Petition filed under Section 482 of Criminal Procedure Code, praying to call for the records in C.C.No.44 of 2011 on the file of the Judicial Magistrate, Perundurai, Erode District and quash the same.

For Petitioners: Mr.C.Munusamy

For Respondent : Mr.S.Vinoth Kumar
Government Advocate(Cr1.side) for R1
Mr.A.Sundaravadhanam for R2

ORDER

This criminal Original Petition has been filed to call for the records in C.C.No.44 of 2011 on the file of the Judicial Magistrate, Perundurai, Erode District and quash the same.

2. The crux of the charge against the accused is that the accused has conspired together and sold the property to the defacto complainant in the year 2001. They already entered into an agreement for sale in favour of the third party.

3. The learned counsel for the petitioners would submit that the entire dispute between the parties concerned is purely civil in nature and the suit is pending before the Trial Court. Therefore, the prosecution against the petitioners cannot not be maintainable.



4. At the outset, this Court is of the view that merely because there is a civil matter pending between the parties, the same cannot be quashed. Even in the civil nature, when there is an allegation on the element of fraud and deception found in the Final report that has to be tested only in the trial not by exercising jurisdiction under Section 482 of Cr.P.C. In such view of the matter, I do not find any merits to quash the proceedings. Accordingly, this Criminal Original Petition is dismissed. Consequently, connected miscellaneous petitions are closed.

5. The learned counsel for the petitioners requested this Court to dispense with the presence of the petitioners. Taking into consideration, the facts and circumstances of the case, the presence of the petitioners are dispensed with except for receipt of copies, answering the charges, questioning under Section 313 Cr.P.C., or on any other date as may be required by the trial Court. They shall be represented by a counsel, who shall cross examine the witnesses on the same day, they are examined in Chief.

Sd/-
Assistant Registrar(CS-VII)

//True copy//

Sub Assistant Registrar

msv

To

1. The Judicial Magistrate,
Perundurai,
Erode District Erode.
2. The Public Prosecutor,
High Court, Madras-104.

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and Crl.M.P.Nos.9628 & 9629 of 2017

PL(CO)
GMY(06/12/2021)