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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.11.2021

CORAM :

THE HONOURABLE MR. JUSTICE N.SATHISH KUMAR

Crl.O.P. No.18679 of 2017
and
Crl. M.P. No.11375 of 2017

1. Sowmya
 2. Viswanathan
 3. Yasotha
- ... Petitioners

vs.

1. The state rep. by
Sub-Inspector of Police,
District Crime Branch,
Kancheepuram,
Kancheepuram District.
(Crime No:58 of 2014)
 2. Subramanian
- ... Respondents

PRAYER: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to call for the records in C.C.No.148 of 2015 on the file of the Judicial Magistrate No:I, Kancheepuram, and quash the same.

For Petitioner :Mr.S.Prabhu

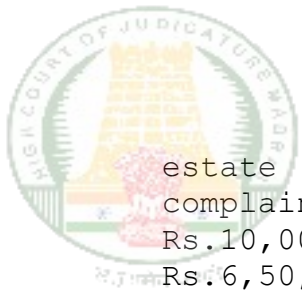
For 1st Respondent:Mr.S.Vinoth Kumar
for Public Prosecutor

For 2nd Respondent:Service Awaited

ORDER

This Criminal Original Petition has been filed to Quash the proceedings in C.C.No.148 of 2015 pending on the file of the Judicial Magistrate No:I, Kancheepuram,

2. The case of the prosecution is that A4 is wife of A1 and A5 and A6 are the parents of the A1. A1 was doing real



estate business in the name of S.S. Association. The defacto complainant, believing A1 had paid Rs.30,00,000/- on 23.09.2012, Rs.10,00,000/- on 23.10.2012, Rs.14,00,000/- on 31.01.2013, Rs.6,50,000/- on 05.02.2013. Rs.7,00,000/- on 04.03.2013, Rs.10,50,000/- on 15.03.2013, Rs.4,00,000/- on 09.04.2013, Rs.5,00,000/- on 12.04.2013, Rs.80,00,000/- on 22.06.2013 and Rs.7,00,000/- on 24.05.2013 and thereafter Rs.37,50,000/- lacks for doing real estate business. Thereafter, they entered several agreements in this regard.

3. The last payment of Rs.37,50,000/- was paid to A4 to A6 and they also induced the de-facto complainant. Thereafter the defacto complainant came to know that the properties sought to be sold is already been mortgaged and the amount has been received only with an intend to defraud the de-facto complainant. The investigation was completed and final report has been filed. Except the allegation that A4 to A6 stated to have been induced and payment of Rs.37,00,000/- has paid to them, no other allegations of cheating has been unearthed during the investigation. Even the allegation that only on their inducement, the de-facto complainant parted their money itself is highly improbable. Prior to the payment of Rs.37,00,000/- to the A5 and A6 there were several transaction between the defacto complainant and A1 and several payments were made to A1.

4. Merely because the parents are at the house and stated to have received some amount which was paid only to A1, cannot be said that they are also perpetrator of the offence. At any event, the entire material collected by the Investigation Officer do not constitute the offence against A4 to A6. Such being the position, continuing the prosecution against A4 to A6 is nothing but a futile exercise.

5. Accordingly, C.C. No.148 of 2015 on the file of the Judicial Magistrate No.I, Kancheepuram is quashed as against A4 to A6 alone. This Criminal Original Petition is disposed of. Consequently, connected Criminal Miscellaneous Petition is closed.

SD/-
ASSISTANT REGISTRAR

// TRUE COPY //

SUB ASSISTANT REGISTRAR



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To

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1. The Judicial Magistrate No:I,
Kancheepuram
2. The Sub-Inspector of Police,
District Crime Branch,
Kancheepuram,
Kancheepuram District.
3. The Public Prosecutor,
High Court of Madras,
Madras.

+1cc to M/s.S.Prabhu, Advocate Sr.58064

Cr1.O.P.No.18679 of 2017

pmk[co]
srg 01/12/2021