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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.07.2021

CORAM:

THE HON'BLE MR.JUSTICE M.DHANDAPANI

W.P.No.33944 of 2018
and W.M.P.Nos.39406, 39410, 39411 and 39412 of 2018

1. Raghuraman
2. Senthil Kumar ... Petitioners

Vs.

1. The Commissioner of Police,
Commissioner Office,
Vepery, Chennai.
2. The Sub-Inspector of Police,
Central Crime Branch-EDF-II,
Commissioner Office, Vepery,
Chennai.
3. The Inspector of Police,
CCB-1, Land Grabbing Unit-Team 17,
Commissioner Officer,
Vepery, Chennai.

4. T.T,Chandrasekar ... Respondents

PRAYER: Writ Petition has been filed Under Article 226 of Constitution of India, praying for issuance of Writ of Certiorarified Mandamus calling for the records in respect of the impugned first information report in Crime No.454 of 2018 dated 29.10.2018 of the 2nd respondent and quash the same.

For Petitioners : Mr.N.V.Prakash
For Respondent : Mr.C.E.Pratap (R1 to R3)
Government Advocate (Crl.Side)
For Respondent : Mr.C.Sivnesan (R4)

ORDER

The petitioners have filed this writ petition seeking to quash the FIR filed against them in Crime No.454 of 2018 on the file of the second respondent.

2. The case of the petitioners is that the petitioners 1 and 2 claim themselves to be reputed builders and it is their case



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that the 4th respondent approached them for building him a residential house. The petitioners being in possession of a power of attorney issued by one V.V.Kodanda Ramaiah and eight others in respect of their landed property, entered into an agreement with the said property and paid him a sum of Rs.10 Lakhs and got the document registered in their name before the Sub Registrar Office, Villivakkam. Thereafter, the 4th respondent purchased the property for a sum of Rs.1,09,00,000/- and mutation was effected in his favour. The petitioners commenced construction in the said property. At that time, one Bernatshaw, lodged a police complaint before the Inspector of Police, CCB-I, Land Grabbing Unit-Team 17, Commissioner Office, Vepery, Chennai against the petitioners and 12 others alleging that he is the original owner of the property and property was gifted by his father. The said complaint was registered in Crime No.198 of 2018 for the offence under Sections 419, 465, 467, 468, & 120 B of IPC . Based on the said complaint, the petitioners were arrested and remanded to judicial custody. The 4th respondent was also arrested, however, according to the petitioner, because of influence exerted by his father. The petitioners filed a bail application and they were enlarged on bail.

3. It is the case of the petitioners, they were illegally detained by the 2nd respondent. The 2nd respondent colluded with the 4th respondent and pressurized the petitioners to return Rs.1,09,00,000/- and they also forced them to sign in a memorandum of understanding. It is the case of the petitioners that cheques, promissory notes and original documents of a property and some cash were handed over the 4th respondent in the presence of the 2nd respondent.

4. In this regard, the petitioners sent a legal notice dated 09.12.2018 calling upon the 4th respondent to return the documents and money that were forcibly obtained from the petitioners.

5. Subsequently, it is the case of the petitioners that at the instance of the 4th respondent a complaint was registered against the petitioners in Crime No.454 of 2018 for the offence under Sections 419, 465, 467, 468, 471, 420 and 120 B IPC. It is the grievance of the petitioners that they are forced to face prosecution for the same offence as registered in Crime No.154 of 2018. The main grievance of the petitioners is that there are subjected to double jeopardised by forcing them to face prosecution, based on the complaint filed by V.V.Kodanda Ramaiah and the fourth respondent. The offences are overlapping and investigation to be done in both cases one of the same . The continuation of two FIRs is only resulted in multiplicity of proceedings and if the petitioners are acquitted in one case and affect in another, it would be miscarriage of justice.



Therefore, the petitioners prayed that the complaint registered in Crime No.454 of 2018 may be quashed.

6. Heard learned counsel appearing on either side and perused the materials available on record.

7. It is elementary that in a case of this nature, the writ Court has no role to play. The matter would require letting in of evidence, production of documents and the issue cannot be decided based on affidavit evidence. Moreover, for quashing the FIR invoking Article 226 of Constitution is not admissible. The role of Writ Court is very limited in a matter of this nature.

8. In the result, this writ petition is dismissed. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

msrm

To

1. The Commissioner of Police,
Commissioner Office,
Vepery, Chennai.
2. The Sub-Inspector of Police,
Central Crime Branch-EDF-II,
Commissioner Office, Vepery,
Chennai.
3. The Inspector of Police,
CCB-1, Land Grabbing Unit-Team 17,
Commissioner Officer,
Vepery, Chennai.
4. The Public Prosecutor,
High Court of Madras.

+1CC to Mr.N.V.Prakash, Advocate, Sr.No.34850

W.P.No.33944 of 2018
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KSM (CO)

K.RK. (22.09.2021)