



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 08.03.2021

CORAM :

THE HONOURABLE Mrs. JUSTICE R. HEMALATHA

Crl.O.P.(MD)No.3526 of 2021

and

Cr.M.P(MD) Nos.1945 and 1946 of 2021

1.R.Venkatasamy

2.S.Hameedha Begum

3.N.Vahitha Banu

... Petitioners/Accused No.8 to 10

Vs.

1.The State rep. by

The Inspector of Police,

Cyber Crime,

Central Crime Branch (Incharge),

Madurai - 14.

Crime No.36 of 2009

... 1st Respondents/Complainants

2.A.Ayeesa Bibi

...2nd Respondent/Defacto Complainant

Prayer : Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, 1973, to call for the records in C.C.No.202 of 2013 on the file of the Judicial Magistrate Court No.I, Madurai, and quash the same.

For Petitioners : Mr.D.Sadiq Raja

For 1st Respondent : Mr.A.Robinson,

Government Advocate (Criminal side)

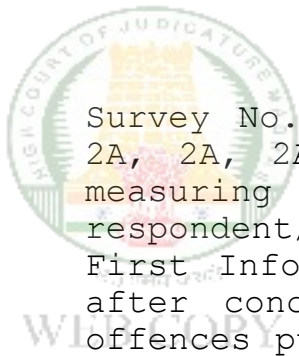
For 2nd Respondent : Mr.R.Sevugaraja

ORDER

The present petition is filed by the petitioners under Section 482 of the Code of Criminal Procedure, 1973, to quash the proceedings in C.C.No.202 of 2013, on the file of the learned Judicial Magistrate No.I, Madurai.

2.The case of the prosecution in nutshell is as follows :-

The Accused 1 to 11 conspired with each other and transferred the properties of the defacto complainant in favour of the first accused, by impersonating the defacto complainant. Therefore, a charge was created in respect of the properties in



Survey No.21/7A, 2A, 2A, 2C, measuring 19 cents, Survey No.21/7A, 2A, 2A, 2A, measuring 17 cents and Survey No.21/7A, 2A, 2A, 2B, measuring 19 cents of Fathima Nagar, Arappalayam. The first respondent/ Inspector of Police, Cyber Crime, Madurai, registered a First Information Report in Crime No.36 of 2009 and subsequently, after concluding the investigation, laid a charge-sheet for the offences punishable under Sections 120(b), 419, 420, 465, 468, 471 read with 34 of the Indian Penal Code.

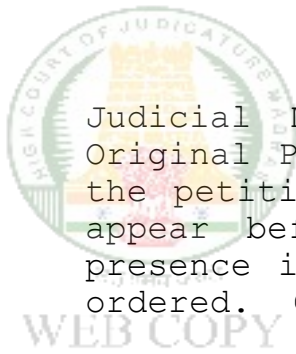
3.The learned counsel for the petitioners submitted that the present petitioners are only subsequent purchasers of the properties and that they have not committed any offence much less the offences punishable under Sections 120(b), 419, 420, 465, 468, 471 read with 34 of the Indian Penal Code, as alleged by the prosecution.

4. Per contra, Mr.A.Robinson, learned Government Advocate (Criminal side), who accepts notice on behalf of the first respondent, on instructions, would contend that in the instant case, the first accused is the adjacent land owner of the disputed property in Survey No.21/7A, 2A, 2A, 2C, measuring 19 cents, Survey No.21/7A, 2A, 2A, 2A, measuring 17 cents and Survey No.21/7A, 2A, 2A, 2B, measuring 19 cents of Fathima Nagar, Arappalayam, and that all the accused had impersonated the defacto complainant and registered a sale deed in favour of the first accused. It is also contended by him that the de-facto complainant's signature was also forged by the accused 1 to 11 and therefore, there is no ground to quash the proceedings in C.C.No.202 of 2013, on the file of the learned Judicial Magistrate No.I, Madurai.

5.Mr.R.Sevugaraja, learned counsel for the second respondent / de-facto complainant contended that there are serious allegations against all the accused and that the final report was filed in the year 2013 and the case is now posted for trial. His further contention is that Crl.O.P(MD)No.10040 of 2017 filed by the Accused 3 and 4 and Crl.OP(MD) No.1219 of 2015 filed by the Accused 2, 5 and 11 for quashing the proceedings in C.C.No.202 of 2013, on the file of the learned Judicial Magistrate No.I, Madurai, were dismissed by this Court and that the present petition is filed only to protract the proceedings.

6.A Perusal of the final report prima facie shows that the Accused 1 to 11 have committed the offences punishable under Sections 120(b), 419, 420, 465, 468, 471 read with 34 of the Indian Penal Code, whether the petitioners impersonated and forged the signature of the defacto complainant is a matter for trial, which could not be prejudged or quashed by this Court under Section 482 of the Code of Criminal Procedure.

7. In the circumstances, I do not find any reason to quash the proceedings in C.C.No.202 of 2013, on the file of the learned



Judicial Magistrate No.I, Madurai. Accordingly, this Criminal Original Petition is dismissed. While, the personal appearance of the petitioners is dispensed with, the petitioners are directed to appear before the concerned Judicial Magistrate, whenever their presence is required. Accordingly, Crl.M.P(MD) No.1946 of 2021 is ordered. Consequently, Crl.M.P(MD) No.1945 of 2021 is closed.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

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Note In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

- 1.The Inspector of Police,
Cyber Crime,
Central Crime Branch (Incharge),
Madurai - 14.
- 2.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to Mr.D.SADIQ RAJA, Advocate (SR-9614[F] dated 09/03/2021)

Crl.O.P. (MD)No.3526 of 2021
08.03.2021

VB (26.03.2021) 3P 4C