



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.04.2022

CORAM:

THE HON'BLE MR.JUSTICE SATHI KUMAR SUKUMARA KURUP

Crl.O.P.No.1187 of 2019  
and  
Crl.M.P.No.778 of 2019

1.N.Baaskaran  
2.Lakshmi Baaskarran

... Petitioners

Vs.

1.State by:  
The Inspector of Police  
Central Crime Branch, Team XVIII  
Vepery, Chennai 600 007.

2.Indira Devaraj Bhat

... Respondents

PRAYER: Criminal Original Petition has been filed under Section 482 of Cr.P.C, praying to call for the records in C.C.No.2737 of 2015 pending on the file of the learned XI Metropolitan Magistrate, Saidapet, Chennai and quash the proceedings against the Petitioners/6<sup>th</sup> and 9<sup>th</sup> Accused.

For Petitioners: Mr.B.Mohan

For Respondents: Mr.R.Vinothraja for R1  
Government Advocate (Crl.Side)

ORDER

This petition has been filed to call for the records in C.C.No.2737 of 2015 pending on the file of the learned XI Metropolitan Magistrate, Saidapet, Chennai and quash the proceedings against the Petitioners/6<sup>th</sup> and 9<sup>th</sup> Accused.

2. On 31.03.2022, this Court passed the following order :

When the case came up for hearing, learned counsel for the Petitioner submits that in the Order of this



WEB COPY

Court in Crl.M.P.Nos.778, 779 of 2019 dated 21.01.2019, the learned Single Judge had observed as follows:

"Mr.M.Mohamed Riyaz, learned Additional Public Prosecutor takes notice for the first Respondent. Notice to the second Respondent returnable by six weeks. Private notice is also permitted.

2. It is seen from the records that these two Petitioners are added as A-6 and A-9 in the final report. These Petitioners are subsequent purchasers in the year 2011. The entire allegations in the final report pertains to the role played by A1 to A5. These Petitioners, who ought to have been added as witnesses, have been made as accused persons. It is also seen from the sale deed that these Petitioners have paid a substantial portion of the sale consideration by cheque and demand draft.

3. A prima facie case has been made out and there shall be an order of interim stay of proceedings in C.C.No.2737 of 2015, only insofar as, these Petitioners are concerned. The presence of the Petitioners shall also be dispensed with, pending disposal of the Criminal Original Petition. It is open to the Prosecution to proceed further against the other accused persons and if it is deemed fit, can also proceed further to file a further report by showing these Petitioners as witnesses.

4. Post the matter after six weeks."

2. The learned counsel for the Petitioner further submits that the Petitioners in this petition had been arrayed as A-6 and A-9.

3. On perusal of the charge sheet and on hearing the submission of the learned counsel for the Petitioners, the learned Single Judge had observed that the Petitioners in this Crl.O.P were subsequent purchasers. As per the charge sheet, the alleged offences of Land Grabbing is against A-1 to A-5 only. Therefore, the learned Single Judge had directed the Petitioners to appear before the Investigation Officer. In the mean while, the Investigation Officer is directed to prosecute the witnesses and proceed with the trial also.



WEB COPY

4. It is submitted by the learned counsel for the Petitioners that as per the Order of the learned Single Judge, the Petitioners herein had appeared before the Investigation Officer. The Investigation Officer ought to have recorded the statement of the Petitioners herein as witnesses. But the Investigation Officer had not recorded any statement.

5. In the light of the above observation of the learned Judge as well as the submission of the learned counsel for the Petitioners submits that inspite of the appearance of the Petitioners before the Investigation Officer, the Investigation Officer had not recorded the statement and no summons were also served.

6. The Investigation Officer is directed to appear before this Court along with C.D file on 12.04.2022.

For clarification, Call on 12.04.2022.

3. In the light of the above discussion made by the learned Single Judge, the Petitioners herein were ordered to be examined as witnesses. It is the contention of the Petitioners submitted that as per earlier order, the witnesses appeared before the Investigating Officer, but, no statement was recorded.

4. On 31.03.2022, this Court had directed the Investigating Officer to appear along with status report and CD file. Accordingly, CD file was produced today, at that time of appearance of the Investigating Officer.

5. The learned Government Advocate (Crl.Side) submitted that in continuation of the earlier interim order passed by this Court, the witnesses/the Petitioners herein, who are the husband and wife, who had been earlier arrayed as 6<sup>th</sup> Accused & 9<sup>th</sup> Accused had been examined and statements were recorded by the Investigating Officer.

6. Since the Investigating Officer had recorded the statements of 6<sup>th</sup> Accused & 9<sup>th</sup> Accused, the Petitioners herein, the Investigating Officer is directed to approach the Court of the learned XI Metropolitan Magistrate, Saidapet and file an appropriate petition as per law through the learned Assistant Public Prosecutor and obtain appropriate orders.

7. When the prosecution files a petition regarding the transposing of the names of 6<sup>th</sup> and 9<sup>th</sup> Accused as witnesses, the XI Metropolitan Magistrate, Saidapet, may pass appropriate orders without being influenced by any of the observations made in this case.



WEB COPY

8. Accordingly, this Criminal Original Petition is disposed of. Consequently, connected Miscellaneous Petition is closed.

Sd/-  
Assistant Registrar(CO)

//True copy//

Sub Assistant Registrar

dna

To

1. The XI Metropolitan Magistrate,  
Saidapet, Chennai.
2. The Chief Metropolitan Magistrate,  
Egmore, Chennai -8.
3. The Inspector of Police  
Central Crime Branch, Team XVIII  
Vepery, Chennai 600 007.
- 4.The Public Prosecutor  
High Court, Madras.

+1cc to Mr.B.Mohan, Advocate SR.No.25309

Cr1.O.P.No.1187 of 2019  
and  
Cr1.M.P.No.778 of 2019

NRL(CO)  
GMY(29/04/2022)