



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.06.2022

CORAM:

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

CRL.O.P. No.2260 of 2020

and

Crl.M.P. No.1430 of 2020

1. P.Amuthavalli
2. V.Manonmani
3. H.Jayakumar
4. K.Pandian
5. C.Padmanaban

... Petitioners

Vs.

D.Saravanan

... Respondent

PRAYER: Criminal Original petition is filed under Section 482 of Criminal Procedure Code, to call for the records in C.C.No.33 of 2018 on the file of the Mahila Judge, Magisterial Level, Coimbatore and quash the same.

For Petitioners : Mr.R.Karthikeyan

For Respondent : Mr.P.Saravana Sowmiyan

ORDER

This Criminal Original Petition has been filed to quash the proceedings in C.C.No.33 of 2018 on the file of the Mahila Judge, Magisterial Level, Coimbatore.

2. The case of the prosecution is that, the respondent is the complainant, lodged a complaint alleging that the property comprised in S.No.246/1 to an extent of 5.27 acres belongs to one Parppanna Gounder who died on 06.01.1990 and after his demise, his legal heirs namely one Rukmani, Rangaswamy, Veluswamy and Marudhachalam became the absolute owners of the said property. While that being so, they executed the power of attorney in favour of the fourth petitioner, who in turn, on the strength of power of attorney, he sold the entire property in favour of the petitioners 1 to 3 herein. However, the original owners of the property had cancelled the power of attorney and also cancelled the original sale deed executed in favour of the petitioners 1 to 3 unilaterally.

3. Thereafter, the original owners of the property had executed sale deed in favour of the respondent herein, who is the de-facto complainant, in turn, the respondent executed another power of attorney in favour of the petitioners 1 to 3



herein to deal with the subject property. While execution of power of attorney, the respondent received a sum of Rs.3,50,000 as a token advance to deal with the property. On the strength of power of attorney, the petitioners 1 to 3 had executed agreement for sale with the third party to sell the property and received a sum of Rs.3,50,000 as advance. In fact the said amount was already received by the respondent herein.

4. Now, the respondent lodged private complaint alleging that without paying the entire sale consideration, the petitioners 1 to 3 were attempting to deal with the subject property. The respondent already executed power of attorney in favour of the petitioners 1 to 3 herein. That apart, cancellation of sale deed executed in favour of the petitioners 1 to 3 has also confirmed by the Hon'ble Supreme Court of India in various proceedings. Therefore, no purpose would be served in the complaint lodged by the respondent as against the petitioners.

5. Further, no offence is made out offence under Sections 406 and 420 of IPC. Since on the strength of power of attorney executed by the respondent in favour of the petitioners 1 to 3, they had executed agreement for sale with the third party. Now, the power of attorney was also cancelled by the respondent.

6. In view of the above, pendency of the private complaint lodged by the respondent is nothing but clear abuse of process of law and it cannot be sustained as against the petitioners. Accordingly, the proceedings in CC.No.33 of 2018 on the file of the learned Mahila Judge, Magisterial Level, Coimbatore, is hereby quashed. Insofar the petitioners are concerned.

7. In fine, this Criminal Original Petition stands allowed. Consequently, connected miscellaneous petitions is closed.

Sd/-

Assistant Registrar (CS-IV)

//True Copy//

Sub Assistant Registrar

ata/nti

To

The Mahila Judge, Magisterial Level, Coimbatore.

+1cc to Mr.R.Karthikeyan, Advocate SR. No. 35225

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GPL (CO)