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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.02.2022

CORAM:

THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

CRL.O.P.No.12706 of 2018

&

CRL.M.P.No.6849 of 2018

1.Babiola Marie Jayasree Gnana  
2.Dr.Regina Jaya Shalini  
3.Stephen Jaya Pradeep

... Petitioners

Versus

Dr.Christiana Jayapaul

... Respondent

PRAYER : Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, 1973 to call for the records relating to C.C.No.8975 of 2017, pending on the file of the Hon'ble V Metropolitan Magistrate at Egmore, Allikulam, Chennai and to quash the same as against the petitioners, as not maintainable and bad in law.

For Petitioners: Mr.Ashok Menon

For Respondent : Mr.S.Ravichandran

O R D E R

This petition has been filed to call for the records relating to C.C.No.8975 of 2017, pending on the file of the V Metropolitan Magistrate at Egmore, Allikulam, Chennai and to quash the same as against the petitioners, as not maintainable and bad in law.

2. The petitioners who are arrayed as A2 to A4 in C.C.No.8975 of 2017 for the offence under Sections 406, 420 r/w 34 of IPC, filed this quash application.

3. A private complaint filed by the respondent. The respondent is none other than the daughter of the first petitioner and sister of the petitioners 2 and 3. The complaint is that the respondent along with the petitioners and her uncles Justin Amalradje Ravichanirane Gnana and Michel Soundararadje Oudayachandirane Gnana had executed a registered sale deed in Document No.28050 of 2016, Sub-Registrar Office, Puducherry in favour of one Malarvizhi who is A1 in this case. In the sale deed, the devolve of the property is recorded. The first



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petitioner along with her family members and her son and daughters along with her brothers and their children have executed the sale for consideration of Rs.1,87,00,000/- which has been paid by way of Demand Draft in the name of the first petitioner and her two brothers viz., Justin Amalradje Ravichandirane Gnana and Michel Soundararadje Oudayachandirane Gnana. The complaint of the petitioner is that the petitioner has got a share Rs.61,71,000/- from her ancestral property, that share which has been sold by her mother/1<sup>st</sup> petitioner, which is entitled for the respondent 1/4<sup>th</sup> share. Hence lodged a complaint.

4. The contention of the petitioner is that the respondent/her daughter is a B.D.S Doctor who left the family. The petitioners are devoted Christian and they are very orthodox and god fearing person. The daughter who is the respondent went against the family wish, had married one Suresh, a jobless person which was not agreeable to the family. Hence the 2<sup>nd</sup> and 3<sup>rd</sup> petitioner's father Dr.A.Jayapaul had passed away due to Cardiac Arrest. The property belong to the 1<sup>st</sup> petitioner/mother which was devolved to 1<sup>st</sup> petitioner along with others. Thereafter, for execution of the sale deed, Al/Malarvizhi obtained and wanted the shares of the children of all the three and hence all the children have signed including the respondent. The respondent had filed a Civil suit in C.S.No.540 of 2017 before this Court for the properties purchased by the Dr.A.Jayapaul, her father. No Civil Suit filed with regard to mother's property and if at all the respondent has got any civil right, she has to file a Civil Suit and not file a criminal case and not by shattering the entire family's peace and name, it is nothing but with a personal vendetta, the above complaint has been filed.

5. In the list of documents, the sale deed in Document No.28050 of 2016 dated 09.11.2016 has been annexed which is an admission. On going through the complaint as well as the document filed, there is nothing to show that any offence is made against the petitioner.

6. Mr.S.Ravichandran, the learned counsel for the respondent submitted that the petitioners are powerful persons who are availing properties worth several crores, had denied the respondent/daughter's right full share for the only reason that she had selected her husband on her own. He further submitted that even Dr.Jayapaul participated in the marriage and with the full accordance of the family members the marriage had took place. Now with greed for money, they have denied the share to the petitioner's daughter. The petitioner's daughter is facing great financial difficulty. Her daughter's education has become questionable one. Further the respondent harassed and



threatened by the petitioners. The respondent had earlier lodged a complaint with K-9, Thiruv-Vi-Ka Nagar Police Station, Chennai and CSR No.628 of 2017 assigned on 30.06.2017. Thereafter no action has been taken. Hence, she had sent a representation to the Deputy Commissioner of Police on 21.07.2017, then too no action taken. Thereafter a petition under Section 156 (3) Cr.P.C., which was closed as civil in nature. The respondent filed a protest petition, which was dismissed, now private complaint filed and it is at the trial stage.

7. The Lower Court on perusal of the materials finds that the case is made out, taken the case on file as C.C.No.8975 of 2017. At this stage, the points raised by the petitioners and the respondent are to be decided during trial and the trial cannot be short circuited.

8. Considering the relationship between the petitioners and the respondent, they all hail from the same family. The 1<sup>st</sup> petitioner is the mother and the other two petitioners are brother and sister. Already for the properties purchased by Dr.Jayapaul, the Civil Suit is pending before this Court. As regards this case is concerned, the grievance is that she had been not parted with the sale proceedings of their family shares, for which the respondent can file a Civil Suit and seek recovery if she so desires, but not by filing a criminal case.

9. Considering the nature of the offence and the relationship of the petitioners and the respondent, this Court finds continuance of the proceedings, amounts to abuse of process of law. Hence, this Court is inclined to quash against the petitioners. Al in this case, subsequent purchaser who had purchased the property has done nothing against the respondent/complainant and in view of the same, the case against the petitioners as also against other accused is quashed in C.C.No.8975 of 2017.

10. With the above directions, this Criminal Original Petition is allowed. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

dna/mdl



To

The V Metropolitan Magistrate,  
Allikulam, Egmore Chennai- 8.

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+2cc to Mr.Ashok Menon, Advocate, S.R.No.9284

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Crl.M.P.No.6849 of 2018

MT (CO)  
CT 15/03/2022