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Crl.O.P.No.6051 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.09.2022

CORAM:

THE HON'BLE Ms.JUSTICE **R.N.MANJULA**

Crl.O.P.No.6051 of 2021
and Crl. M.P. Nos.3951 of 2021 & 793 of 2022

1.Ponnammal
2. Jeyaraj

... Petitioners

Vs.

1.The State rep. by
The Inspector of Police,
District Crime Branch,
Tiruppur District.
(Cr. No.4/21)

2. Karuppasamy
3. P.Kavitha
4. A.Palpandian
5. Mariyammal

... Respondents

(R3 to R5 is impleaded as per order in Crl.M.P. No.4980 of 2021 in Crl.O.P. No.6051 of 2021, dated 21.04.2021)

Criminal Original Petition is filed under Section 482 of Cr.P.C, to call for records in Cr. No.4 of 2021 pending on the file of respondent police and quash the same.

For Petitioners : Mr. N.Umapathi



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For Respondent-1 : Mr.A.Damodaran, APP
2 : Mr. V.R.Shanmuganathan
3-5 : Mr. E.Sathiyaraj

ORDER

This Criminal Original Petition has been filed to call for records in Cr. No.4 of 2021 pending on the file of respondent police and quash the same.

2. The petitioners are the first and second accused against whom the case was registered in Cr. No.4 of 2021 for the offences under Section 420, 506(1) IPC and Section 82(d) of the Registration Act, 1908, before the respondent police on the complaint given by the second respondent / *de facto* complainant.

3. The case of the prosecution is that the first petitioner who owned the subject matter of the property had divided them into plots by getting an approved layout. While approving the layout, 25.75 cents of land was earmarked as children play area and it is being in the custody of Udumalpet Municipality.



3.2. The grievance of the second respondent is that a portion of the property which was earmarked for play area was sold to him by the first petitioner under a registered sale deed dated 27.05.1987. On 08.12.2020, the second respondent had applied for planning permission for construction in the said site sold to him but to his surprise he came to know that the site belonged to Udumalpet Municipality and no approval can be given to him. Subsequent to that he had filed a criminal complaint by alleging that the first petitioner had knowingly sold the property which was allotted to public purpose and cheated him.

4. The learned counsel for the petitioners submitted that the property has been sold in the year 1987 and the first petitioner was also paying municipal land tax for the said site and that is being accepted by the municipal authorities; the conduct of the first petitioner would not show that she had any criminal intention while selling the site to the second respondent. The learned counsel for the petitioner had also attracted the attention of the Court about the settlement efforts made during the pendency of the proceedings in which the first petitioner was ready to pay the guideline value for the subject matter and settled the dispute.



5. However, for the reasons best known to the parties, they were not able to materialise the settlement and now it has to be seen whether there are materials available on record to make out a case against the petitioners for the offences under Section 420, 506(i) IPC and Section 82 (d) of the Registration Act 1908.

6. It is pertinent to note that during pendency of the proceedings the respondents 3 to 5 were also got impleaded in the case by alleging that they were also aggrieved since some of the sites were sold to them by one P.Thangavel. The materials and the allegations of the second respondent would show that the respondents 2 to 5 have been misguided to purchase properties for which the vendors themselves did not have title.

7. The allegation of the second respondent is very specific that the property which has been allotted to public purpose was sold to him knowing well that the first petitioner did not hold any title over the same. The allegations are sufficient enough to make out a case of cheating against the first petitioner. Only if the investigation is allowed to go, it can be known whether the second accused who had also attested the sale deed has got any



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cunnivance in the alleged occurrence.

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8. Since the complaint and the other materials available on record makes out a case against the petitioners, I feel that it is not an appropriate case which should be quashed at the threshold stage itself and the investigation should be allowed to go. The amount which has been deposited to the credit of the FIR in Cr. No.4 of 2021 should be deposited by the Jurisdictional Magistrate, I, Udumalpet in any of the Nationalised Banks and the dispersal of the same shall depend upon the result of the case.

9. In the result, this Criminal Original Petition is dismissed and the first respondent is directed to continue with the investigation and complete the same within a period of two months from the date of receipt of the copy of this order. Consequently, connected miscellaneous petitions are closed.

Index: Yes/No
Speaking / Non Speaking Order
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R.N.MANJULA, J.

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To

1. The Inspector of Police,
District Crime Branch,
Tiruppur District.
2. The Judicial Magistrate I, Udumalpet.
3. The Public Prosecutor,
High Court of Madras.

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