



WEB COPY



Crl. O.P. No. 9082 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 4/7/2022

C O R A M

THE HONOURABLE MR.JUSTICE N. SATHISH KUMAR

Crl. O.P. No. 9082 of 2022

a n d

Crl.M.P.No.5283 of 2022

R. Ayyasamy ... Petitioner

Vs

1. State
rep. By The Inspector of Police
CCB, Coimbatore.

2. K. Manikandan ... Respondents

PRAYER : Criminal Original Petitions filed under Section 482 of Cr.P.C. to quash the FIR in Crime No.1 of 2021 dated 2/1/2021 pending on the file of the first respondent as against the petitioner.

For Petitioner ... Mr.A.Mohamed Ismail

For Respondents ... Mr.A.Gokulakrishnan
Additional Public Prosecutor
for R.1.
Mr.R.Krishnaprasad



WEB COPY



Crl. O.P. No. 9082 of 2022

for R.2.

ORDER

This Criminal Original Petition has been filed to quash the F.I.R in Crime No.1 of 2021, dated 2/1/2021, pending on the file of the Inspector of Police, CCB, Coimbatore, first respondent, for the offences punishable under Sections 120 (b) and 420 of the Indian Penal Code.

2. The case of the prosecution is that the defacto complainant and his brother had purchased an undivided share of an extent of 1514.25 sq.ft, situated at T.S.Nos.3451 and 3452, Site No.17, Block No.21 Arogyasamy Road, R.S.Puram, Coimbatore, from one N.A.Raman and one Dr.Thangavelu, by registering Sale Deed, dated 23/12/2019, in Document No.7715 of 2019, for a consideration of Rs.51,74,200/-.

3. Heard Mr.A.Mohamed Ismail, learned counsel for the petitioner, Mr.A.Gokulakrishnan, learned Additional Public Prosecutor for the first respondent and Mr.R.Krishnaprasad, learned counsel for the second respondent.



WEB COPY

4. When the defacto complainant came to know that N.A.Raman and Dr.Thangavelu had already sold the land 35 years ago to one Susila, on 6/5/1985 and concealing the same, sold the property to the defacto complainant, thereby, the defacto complainant had given a complaint to take action against them. Based on the complaint, a case in Crime No.1 of 2021 was registered by the first respondent, for the offences punishable under Sections 120 (b) and 420 of the Indian Penal Code.

5. The learned counsel appearing for the petitioner submitted that the entire allegation in the First Information Report is only against the vendors. Merely because the name of the petitioner has been shown as the witness for the document, he was also slapped with the offences.

6. The learned Additional Public Prosecutor appearing for the first respondent submitted that there is a specific allegation against the present petitioner in the First Information Report and therefore, opposed for quashing the First Information Report in Crime No.1 of 2021.



WEB COPY

7. Perused the materials available on record.

8. Normally, when the prima facie allegation is found in the First Information Report, the Courts would not interfere. Only the investigation agency have to unearth the materials and at the same time, when the First Information Report has been registered without any materials, the Court can exercise its power under Section 482 of the Indian Penal Code. The main allegation in the First Information Report is that since the petitioner is the witness to the document, he is also said to be a party to the fraud committed by the vendors. The allegation is targeted against N.A.Raman and Dr.Thangavelu, who were said to have given a false promise and played deception over the defacto complainant. The only allegation against the petitioner is that the petitioner is a relative of that persons and stood as witness. Therefore, when there is no evidence as to playing fraud, he cannot be prosecuted. In such a view of the matter continuing the First Information Report against the petitioner is an abuse of process of law.

9. Accordingly, this Criminal Original Petition is allowed and F.I.R in Crime No.1 of 2021, dated 2/1/2021, pending on the file of the Inspector of

Page No:4/6



Crl. O.P. No. 9082 of 2022

Police, CCB, Coimbatore, first respondent, for the offences punishable under Sections 120 (b) and 420 of the Indian Penal Code, is quashed, against the petitioner/A.2 alone. Investigation agency shall continue the investigation as against other accused. Consequently, the connected Criminal Miscellaneous Petition No.5283 of 2022 is closed.

4/7/2022

Index : Yes / No
Internet: Yes
Speaking/non speaking order

mvs.

To

1. The Inspector of Police
CCB, Coimbatore.
2. The Public Prosecutor
High Court
Madras.



WEB COPY



Crl. O.P. No. 9082 of 2022

N. SATHISH KUMAR, J

mvs.

Crl. O.P. No.9082 of 2022

4/7/2022