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Crl.O.P.Nos.8068 & 10291 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 05.10.2021

PRONOUNCED ON : 24.06.2022

CORAM:

THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

CRL.O.P.Nos.8068 & 10291 of 2021

and

Crl.M.P.No. 5320 of 2021

CRL.O.P.Nos.8068 of 2021

1.Leela Radhakrishnan @ a.K.Leelavathy ... Petitioner / A1 in
Crl.O.P.8068/2021

2.A.R.Karunakaran @ Anand Karunakaran ... Petitioner / A3 in
Crl.O.P.10291/2021

Vs.

1.Assistant Commissioner of Police,
Central Crime Branch,
EDF-I Wing
Office of the Commissioner of Police,
132, EVK Sampath Road,
Vepery,
Chennai – 600 007

2.T.Nirupendra Murari ... Respondents / Defacto
Complainant in both Crl.O.Ps

COMMON PRAYER: Criminal Original Petitions filed under Section 482 of the Code of Criminal Procedure, to quash the FIR in, Crime No.43 of 2020, dated 06.02.2020, on the file of the Assistant Commissioner of Police, Central Crime Branch, EDF-1 Wing, Chennai.



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CrI.O.P.Nos.8068 & 10291 of 2021

For Petitioners : Mr. A.Ramesh, Sr.Counsel
Mr. K.Newlin Frederick
For Respondent-1 : Mr.A.Damodaran
Additional Public Prosecutor
For Respondents-2 : Mr.K.G.Senthilkumar

COMMON ORDER

Seeking to quash the proceedings in Crime No.43 of 2020, dated 06.02.2020, on the file of the Assistant Commissioner of Police, Central Crime Branch, EDF-1 Wing, Chennai, the petitioners, who are A1 and A3 are before this Court with these petitions.

2.The gist of the case is that the 2nd respondent – defacto complainant filed a complaint under Section 190(1)(a) Cr.PC., before the learned Metropolitan Magistrate CCB & CBCID Special Court, Egmore, Chennai, which has been forwarded under Section 156(3) of Cr.P.C., to the Deputy Commissioner of Police, Central Crime Branch, Veppery, Chennai. Pursuant to which, a case in Crime No. 43 of 2020, has been registered on the file of the Assistant Commissioner of Police, Central Crime Branch, EDF-1 Wing, Chennai.



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3. The complainant's mother one T.Rajammal, during her life time had purchased a property being the land measuring an extent of 10.81 Acres comprised in Survey No.1066 in Madhavaram Village, Thiruvallur District, vide Sale Deed, dated 19.07.1940, registered as Document No.1066 of 1940, on the file of Office of Sub Registrar, Sembiam. In the year 1945, the complainant's mother Rajammal died intestate leaving behind the complainant's father Lt.Col.T.Murari, brother Mahendra Murari, the complainant and his two sisters viz., Padmini and Nalini, as her legal heirs to succeed to the above property. Subsequent to that, all the family members have unanimously decided that the above said property should go to the complaint and his brother Mahendra Murari, on equal share of 50%, but only after the life time of their father T.Murari. Since the complainant's father was a person who would trust any person and would easily fall prey to the advice of any third persons, it was decided that the complainant's father should have life interest alone in the above said property and after his life time, the above said property could be enjoyed by both complainant and his brother absolutely with 50% share each. Thus, with a recital of such a condition clause of life interest to the complainant's father, the complainant's two sisters executed a Settlement Deed in respect of the said property, which was registered as Document No.4360 of 1959, on the file of Office of Sub Registrar, Chengelpet.



4. The complainant and his family members are ardent devotees of 'Sri Sathya Sai Baba', they had acquaintance with the accused and their father Dr.Karunakaran, who also pretended to be an ardent devotees of 'Sri Sathya Sai Baba' and for that reason, they had close relationship. Being so, the complainant and his family members had an idea of forming a charitable trust, transfer the above said property to such a charitable trust, proposed to be formed, and through the trust they wanted to involve themselves in the charitable and philanthropic activities of supporting aged persons, physically challenged persons and orphans, by constructing an orphanage in the above said land. When that being so, the said Dr.Karunakaran and A1 and A2 approached the family members of the complainant, offered to purchase the above said property. Since, the complainant and his family members had intention of floating a charitable trust and using the said property for charitable activities have turned down their offer.

5. However, the Accused Nos.1 and 2 and their father again approached the complainant and his family members permitting to construct a Hospital in the said property only to help the poor people with non profit motive. They further informed that they would also help the complainant and his family members starting the charitable trust, would transfer the hospital intended to be started to the trust of the complainant and his family once the trust is floated and



further informed that they would help them in starting an orphanage in the remaining portion of the land. On such repeated persuasions and inducements made by the accused, the complainant and his family members believed them.

6. By that time, the complainant had left to UK in 1959 for his higher studies. The accused, on convincing the complainant's father and brother, contacted the complainant in the year 1962, who was studying in U.K., requested to sign and send the power of attorney in favour of the complainant's father, which they have prepared, by informing that the same is required for carrying out the activities of forming the charitable trust. Subsequently, in 1965 they took another power of attorney from the complainant in favour of the complainant's brother. They obtained these power of attorneys by informing that they are required to start the activities of forming a charitable trust. The complainant and his family members had totally believed and trusted them, as they claimed themselves to be the ardent devotees of Sri Sathya Sai Baba. Further, they were under the bonafide belief that no sale document concerning their above said property could be executed and registered in favour of any third parties, as there was a condition incorporated in the settlement deed executed by the complainant's sisters in the year 1959, wherein the complainant's father was given life interest only in the said property and therefore, no conveyance in favour of any third parties could be done in respect of the property during the life time of complainant's father.



7. The complainant's brother moved to America in the year 1969 and settled there. The complainant owing to his employment stayed in London . While so, the complainant's father died in the year 1988. The complainant came back to India in the year 2009. The complainant, thereafter, in the year 2012, met the accused 1 and 2 and demanded to give him those documents relating to the process initiated for starting the charitable trust for the complainant's family, as till then they never obtained any permission for operating a charitable trust. The accused 1, 2 and 3, who are daughter and grandsons of Late Dr.Karunakaran, who are now looking after the Management of the Hospital, informed that they have initiated the process of getting permission from the Government agencies for starting the charitable trust and it would take some time for getting statutory clearance. By giving such information they again continued to be evasive for years.

8. While so, in the year 2018, complainant's friends informed that they would help the complainant in starting a charitable trust and an orphanage by getting necessary statutory clearances and for which they requested the complainant to give the copies of the application, which was already submitted to the Government, the trust deed and the copies of the title deeds of the above said property. Hence, complainant requested A3 to give the copies of those documents, but A3 delayed in handing over the same by giving one reason or



other. Hence, the complainant, on his own, applied for the Encumbrance Certificate and the certified copies of the documents of the above said property from the concerned Sub Registrar Office. On receiving the Encumbrance Certificate, the complainant was shocked to see that using the power of attorneys, they have fraudulently got a sale deed executed in favour of the said Dr.Karunakaran and one Murari Hospital Syndicate, a Society in which Dr.Karunakaran, the accused herein and his other family members were Members and sale deed those documents registered as Document Nos.2372 of 1963 and 565 of 1966.

9. The accused and their family members with a fraudulent intention and in order to grab the valuable property of the complainant and his brother had fraudulently got the sale deed executed and registered in their favour by using undue influence on the complainant's father and brother. On enquiry, the complainant's brother informed the complainant that A1, A2 and Dr.Karunakaran took the signatures of the complainant's brother and father by representing that a Society by name, 'Muraari Hospital Syndicate' is being floated as a preliminary step of starting a charitable trust for the complainant's family. "Muraari" is also the family name of the complainant. The accused have mentioned the cheques in the documents by informing that the same is required to be mentioned to comply with the legal requirements, but more shockingly they have taken back the amount by cash from the complainant's father and brother by informing that it



would be treated as the funds of the charitable trust. The accused 1 and 2 and their father Dr.Karunakaran had obtained the documents signed by the complainant's father and brother only under the guise of using those documents for starting a charitable trust for the complainant and his family. The complainant have the original parent documents of the above said property in his possession till date.

10. The complainant's father had only life interest in the said property and no conveyance could be done in respect of the said property during the life time of the complainant's father. Knowing the said recital would be a bar in getting any document of conveyance in their favour, the accused, in the fraudulent sale deeds got executed in their favour vide Document Nos.2372 of 1963 and 565 of 1966, they have recited as if the complainant's father and 2 sisters have executed Release Deeds vide Demount Nos.3558 of 1959 and 3558 of 1962. But no such release deeds executed by the complainant's father and sisters. In respect of those sale deed, when certified copies were obtained, it clearly reveled that those documents, being Document Nos.3558 of 1959 and 3558 of 1962 were not connected to the complainant's family members or their above said property. The sale deed documents said to have been registered in favour of the accused in the year 1963 and 1966, were on non judicial stamp papers with Rs.1000 face value, the Non Judicial Stamp Papers of Rs.1000 face value were actually printed and given for circulation for use of general public by India



Security Press, Nasik only in the year 1977 and no documents could have been executed and registered using Rs.1000 stamp papers in the year 1963 or in the year 1966. Hence, the accused with the help of the officials in the Sub registrar office have manipulated the entries and the documents in the Sub Registrar Office after the year 1977 to make a claim, as if the documents were executed and registered in the year 1963 and 1966. Hence, the accused 1 and 2 and Dr.Karunakaran to suit their wrongful intention of grabbing the valuable property of the complainant and his family members created anti-dated fraudulent documents in collusion with the officials in the Sub Registrar office, fraudulently used power of attorneys executed abroad without adjudicating the same, which is a legal requirement.

11. When the above act of the accused was questioned, they pleaded not to take any action by promising to pay consideration for that portion of land in which the hospital was constructed and further promised to convey the remaining vacant portion of the land to the complainant and his brother. When the complainant came for an amicable settlement, the accused never come forward to act as per their promise. Therefore, the complaint having no other option had lodged a complaint before the Commissioner of Police on 4th May 2019, which was forwarded to the Inspector of Police, CCB, Team-I, Chennai for action. The action of Police in not registering the case and not conducting proper investigation on the complaint lodged by the complainant, trying to close



the complaint without registering the FIR closed the case as civil in nature. The complainant approached the Metropolitan Magistrate CCB & CCID Special Court, Egmore, Chennai, by filing a petition in Crl.M.P.No.6697 of 2019, dated 07.01.2020, the present FIR came to be registered against the accused persons.

12. The learned Senior Counsel appearing for the petitioners would submit that the petitioner/A1 father Dr.Karunakaran purchased the property, in the years between 1962 to 1966. Belatedly complainant claiming right over the property lodged a complaint after five decades prior to it, no notice or civil suit with regard to the said property made. Further, the petitioners called for enquiry, the petitioners appeared before the respondent police, submitted all the documents to the said property available with them to prove their contention. The respondent informed that the case will be closed. Thereafter, the petitioners not know the stage of the investigation and the pendency of the above case causes great anguish to the petitioners. The Accused No.2, another daughter of Dr.Karunakaran, sister of A1 and aunt of A3, settled in USA long back, only to spite vengeance the entire family of Dr.Karunakaran implicated. _

13. It is his further contention that the petitioner/A1 is a lady, aged about 85 years and she is the eldest daughter of Dr.Karunakaran and a house-wife and she is in no way connected with the purchase of land or daily affairs of 'Murari Hospital Syndicate'. The Accused No.3 grandson of Dr.Karunakaran is a



practicing advocate, born on 19th September 1965. The complaint utterly lacks bonafides. It is highly improbable that the complainant would have remained silent for over 50 years before lodging the complaint regarding the lands that he owned. It is impossible that there is not even a single written communication, email or legal notice ever issued by the complainant to Dr.Karunakaran or to the Hospital prior to the complaint. The dispute is only civil in nature. The complainant has suppressed the fact that he earlier approached the Tahsildar, Madhavarm, with a petition dated 23.03.2019 to cancel the patta issued to the 'Murari Hospital Syndicate' and that the same was enquired and by order dated 07.09.2018 by the Tahsildar. The complainant changed his story completely in the complaint dated 4th of May 2019 by admitting the sale deeds executed by the complainant's father on behalf of the complainant and his brother, but claims they were executed on the belief that they were trust documents and not sale deeds. The respondent ought to have closed the complaint as lacking in any merit or at least closed the matter as a civil dispute, however, the respondent has done neither and simply keeping the matter pending for no reason. The petitioners, for no fault, is suffering from the stigma of having a case registered against them. The Accused Nos.1 and 2 are aged about 80 years, who in the evening of their life, A3, practicing advocate with repute. Therefore, the learned counsel for the petitioners prays to quash the proceedings in FIR No.43 of 2020, pending on the file of the Assistant Commissioner of Police, Central Crime Branch, EDF-I Wing, Chennai.



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14. The learned counsel appearing for the defacto complainant reiterating the averments made in the complaint would submit that the complainant's mother one T.Rajammal, during her life time purchased the land measuring an extent of 10.81 Acres comprised in Survey No.1066 in Madhavaram Village, Thiruvallur District, vide Sale Deed, dated 19.07.1940, registered as Document No.1066 of 1940, on the file of Office of Sub Registrar, Sembiam. In the year 1945. Rajammal died intestate leaving behind the complainant's father T.Murari, brother Mahendra Murari, the complainant and his two sisters viz., Padmini and Nalini, as her legal heirs to succeed to the above property. Since the complainant's father was a person who would trust any person and would easily fall a prey to the advice of any third persons, it was decided that the complainant's father should have only life interest in the property and after his life time, the above said property could be enjoyed by both the complainant and his brother absolutely with each 50% share. Thus, with a recital of such a condition clause of giving life interest to the complainant's father, the complainant's two sisters executed a Settlement Deed in respect of the said property, which was registered as Document No.4360 of 1959, on the file of Office of Sub Registrar, Chengelpet.

15. The learned counsel for the defacto complainant would further submit that the accused on the promise of forming a charitable trust, cheated the



defacto complainant, by fraudulently executing a sale deed in favour of Dr. Karunakaran father of Accused No.1&2 and in the name of 'Murari Hospital Syndicate'. Neither the defacto complainant nor his family members never had intention to sell the properties. The original parent documents are with the complainants. Further submitted that Non Judicial Stamp Papers with Rs.1000/- face value was not issued by India Security Press, Nasik, Maharashtra, during the year 1963 and 1966, only in the year 1977 issued without serial number. In the year 2004 with serial number water mark and reference to the State were printed and issued. Hence, the Sale Deed in document No.2372 of 1963 and Document No.565 of 1966 are forged documents. Using these forged documents, accused have usurped the defacto complainant's property, created Encumbrance and thereby cheated them. The accused with the help of officials of the Sub Registrars got the sale deed executed. Hence, the learned counsel prays for dismissal of the petition. Further submitted that investigation cannot be scuttled and short-circuited, allowed to reach its logical conclusion.

16. Mr.A.Damodaran, the learned Additional Public Prosecutor appearing for the 1st respondent Police by filing a counter would submit that the defacto complainant filed a complaint under Section 190(1)(a) of Cr.P.C., for the offence under Sections 463, 467, 468, 471 and 420 of IPC., r/w 34 of IPC., before the Court of Metropolitan Magistrate for CCB and CBCID (Metro Cases), Egmore, Chennai. The said complaint was forwarded under Section 156(3) Cr.P.C., to the



Deputy Commissioner of Police-II, Central Crime Branch, Vepery, Chennai with a direction to register the FIR, investigation into the matter and to file the final report, who in turn, forwarded the complaint to the Assistant Commissioner of Police, EDF-1 / R1 for necessary action and report. Accordingly, the 1st respondent registered the complaint in Crime No.43 of 2020 for the offence under Sections 463, 467, 468, 471 and 420 of IPC., r/w 34 of IPC.

17. On registration of FIR, the defacto complainant Nirubendra Murari was examined and his statement recorded by the Investigating Agency. During investigation, the defacto complainant produced certain documents and on perusal of Document Nos.2372/1963 and 565 of 1966 it was found that Rs.1000/- non judicial stamp papers were used for execution and registration of sale deed in favour of Dr.K.N.Karunakaran and the Murari Hospital Syndicate on 31.07.1963 and 21.02.1966 respectively. Whether the non-judicial stamp papers with denomination of Rs.1000/- was actually available in the year 1963 and 1966, the Treasury Officer, Nandanam, Chennai was requested to state on which date and period the Non-Judicial Stamp paper with denomination of Rs.1000/- was issued. In turn, the Treasury Officer, Nandanam, Chennai, on 21.10.2020 reported that as per the letter, dated 24.07.2014, received from India Security Press, Nashik Maharashtra, the Non-Judicial Stamp Paper with Rs.1000/- denomination was not in circulation in the year 1963 and 1966. The first printing of Rs.1000 denomination of Non-Judicial Stamp Paper without serial number and



state name was issued in 1977. The Non Judicial Stamp Paper of Rs.1000/- denomination with security thread, State Name, Serial Number introduced from July, 2004 onwards. Earlier in an order made in Crl.O.P.Nos.20756 and 11940 of 2018, this Court, at paragraph No.2, observed that the Inspector of Police, Central Crime Branch, has filed a status report, wherein in paragraph No.9 he has stated as, 'the then Inspector of Police sent a requisition letter to the District Treasury Officer, Chennai, in order to verify the year of introduction of Rs.1000/- and Rs.500/- non judicial stamp paper and they obtained the reply from India Security Press, Nashik, in which it has been stated that "the ISP (India Security Press) not aware the date of release of Rs.1000/- deno NJSP (Non Judicial Stamp Paper) in a given state of region as ISP only printing the security documents for the Govt. of India as per their requirement. From the available records, the date of first printing of Rs.1000/- deno Non-Judicial Stamp Paper (issue 1976-A) without serial number and state name is 09.02.1977. However, the New design has been implemented in all deno NJSP with security thread, state name, serial Nos. has been introduced from July 2004 onwards."

18. Therefore, there was no possibility of Rs.1000/- denomination Non-Judicial Stamp paper in the year 1963 and 1966 available in circulation. Therefore, using of Rs.1000/- denomination of Non-Judicial Stamp Papers in the Document No.2372 of 1963 and 565 of 1966 are subsequent insertion with the connivance of Sub-Registrar, Sembium at a later stage. Therefore, the learned



Additional Public Prosecutor vehemently argued that in this case, the ingredients of alleged offences have been disclosed and hence, prayed for dismissal of the petition.

19. I have heard the learned counsels appearing on either side and perused the materials available on record.

20. It is not in dispute that the complainant's mother one T.Rajammal, during her life time purchased a property, the land measuring an extent of 10.81 Acres comprised in Survey No.1066 in Madhavaram Village, Thiruvallur District, vide Sale Deed, dated 19.07.1940, registered as Document No.1066 of 1940, on the file of Office of Sub Registrar, Sembiam. In the year 1945, the complainant's mother Rajammal died intestate leaving behind the complainant's father T.Murari, brother Mahendra Murari, the complainant and his two sisters viz., Padmini and Nalini, as her legal heirs to succeed to the above property. Subsequent to that, all the family members have unanimously decided that the above said property should go to the complaint and his brother Mahendra Murari, on equal share of 50%, but only after the life time of their father T.Murari. Further, it was decided that the complainant's father should have only life interest in the above said property and after his life time, the above said property could be enjoyed by both the complainant and his brother absolutely with each 50% share. Thus, with a recital of such condition clause of giving life



interest to the complainant's father, the complainant's two sisters executed a Settlement Deed in respect of the said property, which was registered as Document No.4360 of 1959, on the file of Office of Sub Registrar, Chengelpet.

21. It is the case of the defacto complainant that the accused on the promise of forming a charitable trust, cheated the defacto complainant, by fraudulently executing a sale deed in favour of Dr. Karunakaran and in the name of 'Murari Hospital Syndicate'. It is the further contention of the defacto complainant that neither the defacto complainant nor his family members had any intention to sell the properties. All the original parent documents are with the defacto complainant. The accused with the help of officials of the Sub Registrars got the sale deed executed.

22. It is the case of the petitioners that the petitioners' father Dr.Karunakaran purchased the property in the years between 1962 to 1966. It is argued that why complainant remained silent for over 50 years before lodging a complaint. There is not even a single written communication, email or legal notice ever issued by the complainant to the petitioner or to the Hospital prior to the complaint. The complainant has suppressed the fact that he earlier approached the Tahsildar, Madhavarm, with a petition dated 23.03.2019 to cancel the patta issued to 'Murari Hospital Syndicate' and that the same was rejected by an order dated 07.09.2018 by the Tahsildar, indicating that there



were no documents executed by the complainant and his brother in respect of the said property. The complainant changed his story completely in the complaint dated 4th of May 2019 by admitting the sale deeds were executed by the complainant's father on behalf of the complainant and his brother, but they were executed on the belief that they were trust documents and not sale deeds. Admittedly, petitioners are not party, signatories in both documents. The petitioners, for no fault, is suffering from the stigma of having a case registered against them.

23. The defacto complainant had never denied the signature of his father or his brother, who signed the sale deed in Document No.2372 of 1963 and Document No.565 of 1963. In Document No.2372 of 1963, the petitioner's brother T.Mahendra Murari has signed as first vendor and his father Lt.Col T.Murari, Power of Attorney agent of the second vendor, representing the defacto complainant herein executed the document. Thus, T.Mahendra Murari and Lt.Col T.Murari had signed the Sale Deed. This has not disputed. Further, it is seen that the power of attorney of the defacto complainant executed on 24.07.1962, before the Assistant Secretary, High Commission of India, The United Kingdom, Consular Department and Ex-officio Consular under the Diplomatic and Consular Officers (Oaths and Fees) Act, 1948. By sale deed Document No. 2372 of 1963, 5 Acres and 50 cents in S.N.No.1066 in Madhavaram Village was executed in favour of Dr.Karunakaran.



24. The Sale Deed Document No.565 of 1966 is executed by Mahendra Murari, on his behalf and on behalf of T.Nirupendar Murari, the defacto complainant, as power of attorney, the brother of the defacto complainant, executed the sale deed in favour of 'Murari Hospital Syndicate', the Society registered under the Societies Registration Act. Thus, balance 5 Acres 31 cents in S.No.1066 have been executed in favour of Murari Hospital Syndicate. Thus, the property of the defacto complainant's mother, purchased in Document No.1066 of 1940, from one Samuel Benjamin Girton S/o.William Girton, one portion sold to Dr.Karunakaran and another to Murari Hospital Syndicate. The defacto complainant's mother Rajamma passed away on 06.04.1945, leaving behind her husband Lt.Col T.Murari, who passed away on 17.03.1988. His sister Padmini Murari O'Brien and another sister Nalini Ramakrishna, who passed away on 29.01.2016.

25. The defacto complainant's brother and sister are aged, more than 80 years and both settled abroad. The defacto complainant admittedly was in United Kingdom and thereafter in Canada till 2012. Two sale deeds executed in the year 1963 and 1966. The defacto complainant, for the first document, Document No. 2372 of 1963 had executed power of attorney before the High Commissioner of India, for the execution of Sale Deed in Document No.655 of 1966. The power of attorney executed by the defacto complainant to his brother



Dr.Mahendra Murari, on 22.06.1965, sworn before the City and District of Monreal, Canada. After coming to India, the defacto complainant made an attempt by filing a petition on 23.03.2008, for transfer of patta before the Tahsildar, Madhavaram. The Tahsildar, Madhavaram, on the petition of the defacto complainant, issued notice and passed orders in Na.Ka.No.1072/2018/A1, dated 07.09.2018. The Special Tahsildar, Urban Land Tax, Madhavaram, on perusal of all the documents produced, rejected the claim of the defacto complainant and thereafter, the defacto complainant had not agitated the same.

26. It is to be seen that the Murari Hospital Syndicate is registered with the Registrar of Assurance, Chengalpet District, on 06.02.1964, in S.No.20/1964. The Murari Hospital Syndicate Trust registered with seven Members, including A1 and A2. Apart from being part of the Murari Hospital, as trustees, they have nothing more. The property by Sale Deed in Document No.2372 of 1963 as well as the Document No.565 of 1966 purchased by Dr.Karunakaran and Murari Hospital Syndicate. The Murari Hospital Syndicate, Madras, was formed to provide medical care to women and children at free of costs to the weaker Section of Society, to foster study and research in the field of medicine and to impart training to medical and auxiliary personnel making use of the facilities available at the Hospitals and Institutions. To award educational scholarships to deserving candidates in the filed. In furtherance of the above, to hire, purchase



or otherwise acquire movable or immovable property. Thus, it was started only for the benefit of poor people aimed to do service. Till date the Hospital is functioning and catering to the poor and needy, as per Trust Deed.

27.Though the defacto complainant now make allegation as though Dr.Karunakaran taking advantage of being 'Sri Sathya Sai Baba' devotee, the defacto complainant's father by deceptive, obtained signatures from the defacto complainant, for the purpose of forming a charitable trust and on that belief, the defacto complainant and his brother signed is too far fetched. The defacto complainant and his family are all well educated, well placed, father was a Lt.Col, and his brother a Doctor, both educated abroad, well placed, settled in USA, UK., the family is with reputation, now, after 50 years, change of words for various circumstances can happen. The primary rule is that the documentary evidence prevails over oral evidence. The documentary evidence is contrary to the allegations made by the *de facto* complainant. Further it is a known secret that Madhavaram initially a Village at outskirts of Chennai now part of Chennai, since the Projects of Metro Rail is forthcoming and due to urbanization, the price of land increased manifolds. Now, the land is measured and sold in square feet and each square feet cost is huge amount. Correspondingly, the property of the Murari Hospital Syndicate now worth several crores.



28. It is to be seen that the property even today does not stand in the name of any of the accused and till date the charitable Hospital is functioning. The defacto complainant's other allegation is that execution of the second sale deed by the power of attorney not adjudicated and it ought to be adjudicated within a period of three months. This allegation cannot now countenanced. If at all it has been done it is a procedural irregularity, which was committed in the year 1966. More so, the execution of power of attorney and the signature found therein are not disputed by the defacto complainant. This procedural irregularity cannot clothe any criminality against the accused.

29. Now, the only other circumstances that the case on which the defacto complainant primarily projects and proceeds is that the Sale Deed in Document No.2372 of 1963, Sheets 1, 2, 3 are Non Judicial Stamp Papers with Rs.1000 face value and the Sale Deed in Document No. 565/96 Sheets 1 to 9 are Non Judicial Stamp Papers with Rs.1000 face value. According to the defacto complainant, Non Judicial Stamp Papers with Rs.1000 face value was not printed and let in circulation by the Indian Security Press , Nasik, during the relevant period. These documents without serial numbers and reference was in circulation in the year 1977, thereafter, with the serial number and reference to the State with security mark was available and circulated from the year 2004. Hence, on the face of it, both the documents are forged documents. The further



allegation is that by creating the forged documents, using it as genuine, on the valuable property of the defacto complainant, sale deeds executed, in favour of Dr. Karunakaran and Murari Hospital Syndicate, for which, he had relied on the statement of the Treasury Officer, who had given a report on 21.10.2020, informing that during the year 1963 and 1966, Non Judicial Stamp Papers with Rs.1000/- face value was not in circulation and it was only in the year 1977 and thereafter, in the year 2004. Thus, on the face of it, it is a forged document and created, is the primary contention. Further relying on the observation of this Court made in ***Crl.O.P.No.20756 & 11940 of 2018***, it is contended that Non Judicial Stamp Papers with Rs.1000/- face value was issued only in the year 1977 and 2004.

30. It is seen from the communication from India Security Press, Nasik in Reference No.81/EST-29-1, dated 25.07.2019, which is pursuant to the clarification sought in this case with regard to Rs.1000/- value stamp paper availability during the year 1963 & 1966, wherein it has been clearly stated in para 2, which is extracted hereunder:-

“2. In this connection, it is to inform you that India Security Press is not providing such information in general. India Security Press provides this information is only after examining the Genuineness of the Stamp under question. Hence, you are requested to send the questioned Stamp in original to India Security Press for examination and information related to that Stamp.”



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31. It is further seen that during the relevant period several of the documents with face value Rs.1000/- non judicial stamp papers were used. Document No.2248 of 1966 is a sale deed, registered in SRO., West Madras, in which 42 Non Judicial Stamp Papers with Rs.1000/- face value have been used. Likewise, the Sale Deed registered as Document No.113 of 1969, dated 18.01.1969, the Non Judicial Stamp Papers with Rs.1000/- face value have been used. Further, the Sale Deed in Document No.482 of 1972, 42 Non Judicial Stamp Papers with Rs.1000/- face value have been used. Thus, Rs.1000/- valued Non Judicial Stamp Papers were available and in circulation well before.

32. It is seen that in a case in Crime No.9 of 2018, reassigned against CCB Cr.No.141 of 2016, which was investigated by the Inspector of Police, CBCID, Metro Wing, Chennai, a premier investigation agency filed the final report for a similar kind of allegation wherein, the primary question to be decided was that whether Non Judicial Stamp Papers with Rs.1000/- face value were printed in India Security Press even before 1977, for which, the General Manager of India Security Press was addressed to clarify the genuineness of the documents / instruments. The India Security Press, Nasik had sent a detailed report stating that 1000 rupees non judicial stamp papers were first printed in India on 04.04.1962 and despatched on 18.05.1962. Thus, it is clear and established that in the year 1962 itself the Non Judicial Stamp Papers with Rs.1000/- face value

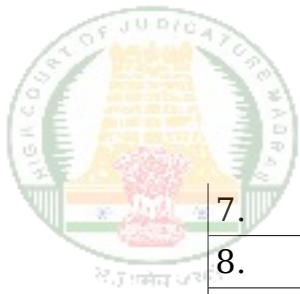


were in circulation. Earlier, the General Manager of the India Security Press had clearly stated that they will not be in a position to give the genuineness of the stamp paper in the document, unless the original is sent for examination. Thus, the entire case of the defacto complainant, which revolves on Non Judicial Stamp Papers with Rs.1000/- face value, lost its steam, no more significant, relevant to be further probed having lost its rigour.

33. Further, on the attendant circumstances of the case it is seen that the defacto complainant, as earlier mentioned, not denied or disputed the signature of himself in the power of attorney as well as his brother and father in the sale deeds Document No.2372 of 1963 and Document No.565 of 1963. The property was purchased for establishing the hospital and the hospital is still functioning. No individual, more so, the petitioners herein have benefited out of the same or made any arrangement or took any steps to divest the hospital of its valued property. The hospital is now presently run by following Board of Members:-

LIST OF BOARD MEMBERS

S.NO	NAMES	POSITION
1	DR.A.K.URMILA KAIMAL	TREASURER
2.	MR.KKS.KAIMAL	CHAIRMAN
3.	MR.SHASHI KUMAR	SECRETARY
4.	MRS A VATSALA NATARAJAN	
5.	MRS.LEELAVATHY RADHAKRISHNAN	
6.	MR.N.P.RAMANUNNI NAIR	



7.	MR.M.NATARAJAN	
8.	DR.M.VIJAYALAKSHMI	
9.	MRS.A.VINODHINI SUDHINDRAN	
10.	DR.A.N.VASUDEV	
11.	MR.R.S.PANDURANGAN	
12.	MRS.LEENA SHASHI	
13.	MR.SARVESH SHASHI	
14.	MRS ANANDHI	
15.	MR.C.RAMACHANDRAN, IAS – RETIRED	
16.	MR.N.HARI BHASKAR, IAS – RETIRED	
17.	MR.S.VEDANTAM	

34. The defacto complainant knowing well that the petitioners herein are not signatories or parties to the disputed document, they have been roped in only for the reason that they are daughters and grandson of the original promoters of the charitable trust Dr.Karunakaran. The property is in the name of the charitable trust and if at all the property is enjoyed it is only Murari Hospital Syndicate.

35. It is not out of place to mention that A3, grand son of Dr.Karunakaran was born on 19.09.1965, whereas the first document sale deed executed in the year 1963 and the second document was executed in the year 1966. when the first document registered, he was not born, when the second document registered, he was toddler. The defacto complainant to somehow roped in the entire family of Dr.Karunakaran. The defacto complainant wanted only a



peaceful settlement meaning that some portion of the property, which is now become prime property, to be re-conveyed in his favour. Thus, the complaint is a motivated one.

36. It is seen that the prime duty of the first respondent Investigating Agency is that to collect evidence. In this case, the investigation proceeds, otherwise trying to somehow rope in the entire family of Dr.Karunakaran into the case, despite Tahsildar categorically giving a finding as well as the reports received from the India Security Press, Nasik. Further, the Treasury Officer in yet another communication clearly state that it cannot be conclusively said that during which the period the documents were in circulation or not and they do not maintain any record for the same.

37. Having collected these information and coming to know about all these facts, still steps are taken, to project as if petitioners created forged document primarily by using Non-Judicial Stamp Papers with Rs.1000/- face value which was not in use at the relevant period. It is seen from the records that Non-Judicial Stamp Papers with Rs.1000/- face value was in use at the relevant point of time. In view of the same, this Court finds that the allegation of the defacto complainant that the petitioners created forged documents, get the sale deed executed in their favour, cannot be countenanced, that too, for a transaction, which took place 50 years back and it is clear abuse of process of law.



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38. In the result, this petition is allowed and the FIR in Crime No.43 of 2020, dated 06.02.2020, on the file of the Assistant Commissioner of Police, Central Crime Branch, EDF-1 Wing, Chennai, is hereby quashed, against all the accused.

24.06.2022

Index : Yes/No
Internet : Yes / No
MPK/vv2



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To

- 1.The XVIII Metropolitan Magistrate,
Saidapet, Chennai.
- 2.The Inspector of Police,
E1 Mylapore Police Station,
Chennai – 600 004.
- 3.The Public Prosecutor,
High Court, Madras.



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Crl.O.P.Nos.8068 & 10291 of 2021

M.NIRMAL KUMAR, J.

MPK /vv2

Pre-delivery Order made in
CRL.O.P.Nos.8068 & 10291 of 2021

24.06.2022