



Crl.O.P.No.15943 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.10.2022

CORAM:

THE HONOURABLE Dr. JUSTICE **G.JAYACHANDRAN**

Crl.O.P.No.15943 of 2019

and

Crl.M.P.No.7946 of 2019

1.S.Thangavel

2.T.Selvi

..Petitioners

Vs.

1.State rep. by

The Inspector of Police,
Kitchipalaiyam Police Station,
Salem.

2.Govindasamy

..Respondents

PRAYER: Criminal Original Petition filed under Section 482 Cr.P.C. praying to call for the records and to quash the C.C.No.46 of 2018, on the file of Judicial Magistrate No.II, Salem.

For Petitioners : Mr.A.Prabhakaran

For R1 : Mr.N.S.Suganthan
Government Advocate (Crl.Side)

For R2 : No appearance



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ORDER

Heard the learned counsel for the petitioner.

2. This Criminal Original Petition is filed to quash the criminal case pending on the file of the learned Judicial Magistrate No.II, Salem for the offences under Sections 427, 447 and 506(ii) I.P.C.

3. The learned counsel for the petitioners submits that the complaint is bereft of proof and purely civil in nature among the siblings for the money obtained from the subsequent purchaser, while the petitioners have clear title over the property through sale deed dated 02.09.1978 and 22.03.1979.

4. The *de facto* complainant alleging as if the purchaser of the title of the property from the petitioners have no right in the property and they have sold their shares to various persons long back. Thereafter, trespassed into the property, damaged the fence and caused criminal intimidation.

5. However, on perusing the records, this Court finds that the police after investigation found that there was a criminal trespass over the disputed property and damage caused. Hence, investigation proceeded and culminated into



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criminal trespass. Insofar as the title and possession of the disputed property is concerned, it is the matter for trial before the Court and disprove the case of the prosecution that there was no criminal trespass and damage of the property as alleged in the final report. The High Court on exercising its power under Section 482 cannot look into the title and possession of the property when there is a *prima facie* case has been made out. Assuming that there is no trespass and damage to the disputed property, will tantamount to prejudge the title and possession of the property.

6. In view of the above, this Criminal Original Petition stands dismissed. Consequently, the connected Criminal Miscellaneous Petition is also dismissed. Since the case is of the year 2015, the trial Court is directed to expedite the trial and complete it within a period of five months from the date of receipt of a copy of this order.

14.10.2022

Index :Yes/No.
Speaking order/Non-speaking order

rpl

Dr.G.JAYACHANDRAN,J.



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WEB COPY

1.The Judicial Magistrate No.II, Salem.

1.The Inspector of Police,
Kitchipalaiyam Police Station,
Salem.

2. The Public Prosecutor,
High Court, Madras.

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