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CRL.O.P.No.16089 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 28.04.2022

PRONOUNCED ON : 06.10.2022

CORAM:

THE HONOURABLE MR. JUSTICE SATHI KUMAR SUKUMARA KURUP

Crl.O.P.No.16089 of 2019

and

Crl.M.P.No.8038 of 2019

1.A.Arokiyasamy

2.Baby Arokiyasamy : Petitioners 1 & 2/Accused – 2 & 3

Vs

1.The Inspector of Police,
Puliampatti Police Station,
Erode District.

(Crime No.164 of 2019) : Respondent/Dejure Complainant

2.M.M.Rengasamy : Respondent/De-facto Complainant

Prayer: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, seeking to call for the records relating to the FIR No.164 of 2019 on the file of the Inspector of Police, Puliampatti Police Station, Erode District and quash the same by allowing this Criminal Original Petition.

For Petitioners	:	Mr.M.Guruprasad
For Respondent 1	:	Mr.S.Vinothkumar
		Government Advocate (Crl. Side)
For Respondent 2	:	Mr.R.Sankarasubbu



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ORDER

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This Criminal Original Petition had been filed to quash the First Information Report in Crime No.164 of 2019 on the file of the Inspector of Police, Puliampatti Police Station, Erode District and quash the same by allowing this Criminal Original Petition.

2.The learned Counsel for the Petitioners Mr.Guruprasad submitted his arguments. As per his submissions, on 11.03.2010 one Srinivasan purchased a property measuring an extent of 96½ cents. On 03.06.2010, he registered a document of Power of Attorney in favour of Arokiyasamy. On the basis of the said Power of Attorney, the first Petitioner had executed a sale agreement in favour of his wife/second Petitioner on 26.07.2010 which was registered as document No.3680/2010 for which cash vouchers had been issued regarding payment of the amount made by Arokiyasamy in favour of Srinivasan. On 21.01.2011, the first Petitioner Arokiyasamy in his status as Power of Attorney of Srinivasan executed a sale deed in favour of his wife Baby Arokiyasamy/second Respondent herein. Subsequently, revenue records were mutated in the name of Baby Arokiyasamy. In the year 2012, one Rangasamy filed a suit for specific performance against Srinivasan in O.S.No.21 of 2012

<https://www.mhc.tridiv.in/judis> on the file of the learned Sub Judge, Sathyamangalam based on the



unregistered sale agreement dated 10.05.2010. Initially on 22.06.2012 an *ex parte* order was passed by the learned Sub Judge, Sathyamangalam, in O.S.No.21 of 2012 directing Srinivasan/Defendant to refund the advance amount to Rangasamy/Plaintiff. The judgment was enclosed in the typed set filed along with this Criminal Original Petition. Since Rangasamy could not achieve, Srinivasan filed a petition to set aside the *ex parte* order in O.S.No.21 of 2012. The *ex parte* decree was set aside and Petition was allowed. Then Rangasamy and Srinivasan requested the learned Sub Judge, Sathyamanagalam to refer the matter to Lok Adalat. In the Lok Adalat, it was settled as follows:

“1.Defendant agrees to execute sale deed in respect of the suit property in favour of the Plaintiff within a period of one month.

2.Plaintiff agrees to deposit balance sale consideration of Rs.50,000/- within two weeks.

3.In the above terms suit is decreed in respect of specific relief.

4.The entire court fee paid by the Plaintiff is agreed to be refunded to the Plaintiff.

5.No costs.”

3.In the Lok Adalat, it was decreed as Plaintiff agrees to deposit balance sale consideration of Rs.50,000/- (Rupees Fifty Thousand only) within two weeks. Srinivasan received the amount and agreed to execute the sale deed.

Accordingly, a decree was passed as follows:



Judgment

To pass a decree and judgment by directing the defendant to execute Sale Deed in favour of the plaintiff for the suit property by way of “Specific Performance” of the sale agreement, dated 10.05.2010; and on the failure of the defendant to comply with the decree, the Hon’ble Court may kindly be pleased to execute a Sale Deed and register the same on behalf of the defendant and put the Plaintiff in possession thereof; and awarding the cost of the suit.

“This Suit is settled in Mega Lok Adalat held at Sathyamangalam on 12.04.2014. Hence, decree is passed in terms of said Mega Lok Adalat settlement memo without cost and Mega Lok Adalat settlement memo is ordered to be attached with the decree.

Pronounced and signed by me in the Open Court this the 12th day of April, 2014.

*Subordinate Judge
Sathyamangalam”*

“To pass a decree and judgment by directing the defendant to execute Sale Deed in favour of the plaintiff for the suit property by way of “Specific performance” of the sale agreement, dated 10.05.2010; and on the failure of the defendant to comply with the decree, the Hon’ble Court may kindly be pleased to execute a Sale Deed and register the same on behalf of the defendant and put the plaintiff in possession thereof; and awarding the cost of the suit.

Suit filed on : 05.03.2012.

Cause of action arose on 10.05.2010, 10.11.2011, 21.10.2012 and on all subsequent dates situated at Nallur Village, Sathyamangalam Taluk.

This Suit was coming this day for final hearing before me in the presence of Advocate Tr.M.Sathish Kumar, for the Plaintiff



side, Advocate Tr.P.Sampath for the Defendant side, then this Court passed the following:

DECREE

- 1.that the suit is hereby be and the same is settled in Mega Lok Adalat.*
- 2.that there be no cost.”*

4.After the decree passed in the Lok Adalat, the Defendant Srinivasan did not execute the sale deed. Therefore, Rangasamy filed Execution Petition in E.P.No.39 of 2015 in O.S.No.21 of 2012 before the Sub Court, Sathyamangalam. Based on the Execution Petition, on 16.12.2016, the learned Sub Judge, Sathyamangalam, had executed a sale deed as per the terms of the decree of the Lok Adalat. Therefore, the first Petitioner Arokiyasamy was constrained to file O.S.No.154 of 2017 before the very same learned Sub Judge, Sathyamangalam where Arokiyasamy and Baby Arokiyasamy are the Plaintiffs and Srinivasan and M.M.Rangasamy are the Defendants. In the suit in O.S.No.154 of 2017, among other prayers, it was prayed to set aside the sale deed executed by the Court in O.S.No.21 of 2012. Pending this suit, Rangasamy/second Defendant in O.S.No.154 of 2017 filed another suit in O.S.No.96 of 2018, where Srinivasan is the first Defendant, Arokiyasamy and Baby Arokiyasamy are the second and third Defendants respectively, seeking declaration that the Plaintiff is the absolute owner of the suit property by virtue



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of the sale deed executed by the Court on 16.12.2016 in Document No.5822 of 2016 on the file of the Sub Registrar, Punjai Puliampatti; declaring that the award passed in LAC No.164/2014 in O.S.No.21 of 2012, dated 12.04.2014 is valid and legally enforceable; and declaring that the sale deed dated 21.01.2011 in Document No.547 of 2011 in the name of the third Defendant, executed by the second Defendant is null and void. The Petitioners herein Arokiyasamy and Baby Arockiyasamy filed a Petition in I.A.No.569 of 2018 under Order VII, Rule 11 of Civil Procedure Code to reject the plaint of Rangasamy in O.S.No.96 of 2018. Similarly, Srinivasan filed a Petition in I.A.No.585 of 2018 under Order VII, Rule 11 C.P.C. to reject the plaint in O.S.No.154 of 2017 stating that the Lok Adalat award cannot be questioned in a suit and it should be challenged either under Article 226 of the Constitution of India by filing a Writ Petition or under Article 227 of the Constitution of India by filing Civil Revision Petition. Except those applications, Srinivasan had not filed any suit. The Petition filed by the Petitioners herein in I.A.No.569 of 2018 to reject the plaint in O.S.No.96 of 2018 filed by Rangasamy was dismissed and the Petition filed by Srinivasan in I.A.No.585 of 2018 to reject the plaint in O.S.No.154 of 2017 was allowed. Therefore, Arokiyasamy and Baby Arokiyasamy/Petitioners herein had preferred Civil Revision Petitions in C.R.P. (PD) No.2644 of 2019 and C.R.P.SR.No.90123 of



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2019 before this High Court. Both the Civil Revision Petitions were taken up together and disposed by order dated 14.08.2019. As per the order passed in C.R.P. (PD) No.2644 of 2019 and C.R.P.SR.No.90123 of 2019, dated 14.08.2019, the learned Judge of this Court had struck off the Lok Adalat decree and re-opened the suit in O.S.No.21 of 2012 for further proceedings. O.S.No.96 of 2018 on the file of the learned Sub Judge, Sathyamangalam for declaration of title based on the sale deed dated 16.12.2016 executed by the Sub Judge pursuant to the Lok Adalat Award and Judgment in O.S.No.21 of 2012 dated 12.04.2014 is struck off. The prayer for declaration to declare the Lok Adalat Award and set aside the sale deed dated 14.12.2016 having become infructuous, O.S.No.154 of 2017 is restored to the file of the learned Sub Judge, Sathyamangalam only in respect of the remaining prayers viz., a) for declaration of title and d) permanent injunction. Also, the learned Single Judge had observed in his orders that since it is found that the Registration of Sale Deed dated 21.01.2011 had created third party rights, it is necessary to implead the Petitioners herein in O.S.No.21 of 2012 to pass a binding judgment on the parties. Also, the learned Single Judge had observed that this Court in order to avoid further wastage of time in impleading the parties, *suo motu* impleaded the Petitioners as Defendant in O.S.No.21 of 2012. The trial Court was directed to permit the parties to carry out necessary



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amendments to the cause title and pleadings relevant to the facts of the case.

Considering the litigation between the same parties over the same subject matter, a direction was given to the trial Court to take up both the suits in O.S.No.21 of 2012 and O.S.No.154 of 2017 together and at its discretion conduct simultaneous or joint trial and conclude the proceedings as expeditiously as possible preferably within a period of six months. It goes without saying that the parties shall cooperate for speedy trial as undertook by the respective Counsel before this Court.

5.In the light of the above discussion, the suit filed by Rangasamy was struck off and as the prayer for declaration of sale deed dated 16.12.2016 has become infructuous, O.S.No.154 of 2017 was restored. As per the direction of the High Court, the suit in O.S.No.21 of 2012 and O.S.No.154 of 2017 are taken up simultaneously and separate decrees were passed. The suit filed by the Petitioners herein/Arockiyasamy and Baby Arokiyasamy in O.S.No.154 of 2017 was decreed. The suit filed by the second Respondent/Rangasamy in O.S.No.21 of 2012 was dismissed.

6.The learned Counsel for the Petitioners had furnished the typed set



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regarding the judgment in O.S.No.21 of 2012 on the file of the learned Sub Judge, Sathyamangalam dated 09.04.2021. On perusal of the same, it is found that the suit had been dismissed.

7.The learned Counsel for the Petitioners further submitted that the first Petitioner had obtained information through Right to Information Act regarding the sale of stamp paper by the Stamp Vendor Mr.Myilsamy in which it is stated that the stamp paper bearing Serial No.53993 was sold to ICICI Bank, Trichy Road, Coimbatore, which had been used by the second Respondent/Rangasamy. As per the reply obtained by the Petitioner herein Arokiyasamy under Right to Information Act from the District Registrar, the entries in the Register shows that the stamp paper used by Rangasamy for the sale agreement was already sold by the Stamp Vendor Mr.Myilsamy to ICICI Bank, Trichy Road, Coimbatore. That had been fraudulently obtained. The stamp paper bearing serial No.50AA090454 was sold to one Asaithambi. On investigation by the Inspector of Police, it is found that only to defraud the first Petitioner Arokiyasamy fraudulent deeds were executed by using stamp papers sold to someone which had been obtained by Srinivasan as true and genuine document for the purpose of cheating. It is sufficient to prove forgery for the offences under Sections 463 to 471 of I.P.C. The statement of the



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second Respondent in this Petition/Rangasamy was obtained by the Inspector of Police in which he had clearly stated that Srinivasan had obtained the stamp paper for the sale agreement and Srinivasan is none other than the Manager of Rangasamy. Therefore, they had colluded to cheat the Petitioners herein and had created documents. Therefore, the Petitioners herein had preferred complaint to the Anti-Land Grabbing Special Cell, Erode, where the second Respondent herein had given statement. Similarly Srinivasan also had given statement.

8.The learned Counsel for the Petitioners invited the attention of this Court to the Petition filed by Srinivasan in Crl.O.P.No.14973 of 2019 seeking to quash the C.C. No.68 of 2018 pending on the file of the learned Judicial Magistrate, Sathyamangalam. The charge sheet was taken on file only under Section 447 of I.P.C. in which FIR was filed under Section 379 (Non purposal) also. But it was subsequently dropped and the charge sheet was filed under Section 447 of I.P.C. only. Based on the complaint preferred by the first Petitioner Arokiyasamy, the charge sheet in C.C.No.100 of 2018 had been laid against the Accused – Srinivasan, Rangasamy and others for the offence under Section 120-B, 420, 467, 468, 471 and 109 I.P.C. in which the District Registrar also had been examined as witness regarding the misuse of the stamp



paper already issued in the name of ICICI bank which was obtained by Srinivasan and created sale agreement in favour of Rangasamy. Srinivasan had executed Power of Attorney to Arokiyasamy/the first Petitioner herein and had received the amount from Arokiyasamy.

9.In support of his contention, the learned Counsel for the Petitioners relied on the following decisions of the Hon'ble Supreme Court:

(i) In the case of ***Sachidanand Singh -vs- State of Bihar*** reported in ***(1998) 2 SCC 493***.

(ii) In the case of ***Bhima Razu Prasad -vs- State, Rep. by Deputy Superintendent of Police, CBI/SPE/ACU-II*** reported in ***2021 SCC OnLine SC 210***.

10.The learned Government Advocate (Crl. Side) Mr.S.Vinothkumar vehemently objected to the arguments of the learned Counsel for the Petitioners that there are no materials available regarding the Petitioners and the FIR has been registered only to harass the Petitioners cannot at all be accepted as there are materials attracting the overt acts of the Petitioners. As per the ruling of the Hon'ble Supreme Court in ***State of Haryana -vs- Bhajan***

Lal reported in ***1992 Suppl.(1) SCC 335*** this Court exercising the powers



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under Section 482 of Cr.P.C. cannot go into the statements of the witnesses and Accused in the charge sheet and shall not quash the FIR, Charge Sheet, Criminal Complaint, ect. Therefore, the learned Government Advocate (Crl. Side) sought to dismiss this Petition as having no merits.

11.The learned Counsel for the Second Respondent Mr.R.Sankarasubbu submitted that while hearing the arguments in Civil Revision Petition, the arguments of the learned Counsel for Rangasamy was not heard and therefore, the reliance placed by the learned Counsel for the Petitioners in Crl.O.P.No.16089 of 2019 cannot be accepted to quash the FIR in Crime No.164 of 20109. Further, regarding the dismissal of the suit in O.S.No.21 of 2012 appeal had been filed by the second Respondent before the learned District Judge, Erode and is pending. Therefore, quashing of the FIR cannot be considered and this Criminal Original Petition has to be dismissed.

12.Considering the rival submissions, the submissions of the learned Government Advocate (Crl. Side) Mr.S.Vinothkumar for the first Respondent and the submission of the learned Counsel for the Second Respondent Mr.R.Sankarasubbu, cannot at all be considered. From the judgment by the learned Single Judge in C.R.P. (PD) No.2644 of 2019 and C.R.P.SR.No.90123



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of 2019, dated 14.08.2019, it is found that the conduct of Srinivasan and Rangasamy is deprecated. In the suit filed by Rangasamy wherein the trial Court had already passed *ex parte* judgment directing refund of the amount received by Srinivasan, as per the judgment of the learned Sub Judge, Sathyamangalam in O.S.No.21 of 2012, dated 22.06.2012. Subsequently, Srinivasan filed Petition to set as the *ex parte* decree and after the *ex parte* decree was set aside, the matter was referred to Lok Adalat where they had arrived at a settlement stating that after receiving Rs.50,000/-(Rupees Fifty Thousand only) from Rangasamy, Srinivasan agreed to execute sale deed. Therefore, based on the settlement, decree was passed in Lok Adalat. Subsequent to the decree passed in LAC No.164 of 2014 dated 12.04.2014, Srinivasan had not executed the sale deed. Therefore, Rangasamy filed E.P.No.39 of 2015 in O.S.No.21 of 2012. Based on the Execution Petition, the learned Sub Judge, Sathyamangalam, had executed sale deed whereby the property bearing Survey Nos.187/6 and 187/10B measuring an extent of 96½ cents belonged to Srinivasan was sold and registered in favour of Rangasamy. Aggrieved by the same only, the Petitioners herein had filed suit in O.S.No.154 of 2017 in which Srinivasan had filed Petition in I.A.No.585 of 2018 under Order VII, Rule 11 CPC to reject the plaint. The Petition in I.A.No.569 of 2018 in O.S.No.96 of 2018 filed by Arokiyasamy under Order



VII, Rule 11 of CPC seeking rejection of the plaint was dismissed and the Petition filed by Srinivasan was allowed. Aggrieved by the same, Arokiyasamy had preferred Civil Revision Petitions before this Court in C.R.P. (PD) No.2644 of 2019 and C.R.P.SR.No.90123 of 2019. Both the Civil Revision Petitions had been taken up together by the learned Single Judge of this Court an order had been passed whereby the parties in O.S.No.21 of 2012 has to be impleaded as Party to O.S.No.154 of 2017 and suit be heard on merits. Therefore, there are civil proceedings pending between them.

13.Further, on consideration of the the reliance placed on by the learned Counsel for the Petitioners Mr.M.Guruprasad in the reported ruling of the Hon'ble Supreme Court in *(1998) 2 SCC 493 [Sachidanand Singh -vs- State of Bihar]* wherein it is observed that when the forgery is alleged to have taken place in a subject matter pending before the Court and the Court comes to the conclusion that party to the civil litigation had filed a forged document in support of his/her contention which was found out in due course of trial by the Civil Court, after conclusion of the trial, on the direction of the Civil Court only, a case can be registered by the official of the Court on behalf of the Court. Therefore, the Complaint preferred at the instance of the party to the civil proceedings before ever the Court comes to the conclusion that the



document was presented before the Civil Court by the party to the civil proceedings and before ever the Civil Court arrives at a decision that the document marked and relied by the party to the civil dispute was a forged document, there cannot be a complaint at the instance of the said party. Here, there are civil litigations pending against each other. While so, till the civil litigation ends in finality, there cannot be an FIR or a private complaint for the offences alleged regarding forgery of a document filed before the Civil Court. In such circumstances, the objection by the learned Government Advocate (Crl. Side) that the FIR cannot be quashed in the light of the reported ruling of the Hon'ble Supreme Court in *State of Haryana -vs- Bhajan Lal* reported in *1992 Suppl.(1) SCC 335* will not help the prosecution. On the other hand, the ruling placed by the learned Counsel for the Petitioners in *1998) 2 SCC 493 [Sachidanand Singh -vs- State of Bihar]* is applicable to the facts and circumstances of the case. Under these circumstances, the registration of FIR against the Petitioners herein in Crime No.164 of 2019 is found to be abuse of process of Court. The arguments of the learned Government Advocate (Crl. Side) and the learned Counsel for the second Respondent Mr.R.Sankarasubbu are rejected. Therefore, the registration of FIR in Crime No.164 of 2019 is liable to be quashed.



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In the result, **this Criminal Original Petition is allowed.**

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The First Information Report in Crime No.164 of 2019 on the file of the first Respondent/Inspector of Police, Puliampatti Police Station, Erode District, is quashed in respect of these Petitioners only.

.10.2022

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Index:Yes/No

Internet:Yes/No



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To:

- 1.The Inspector of Police,
Puliampatti Police Station,
Erode District.
- 2.The Public Prosecutor,
High Court, Chennai.



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SATHI KUMAR SUKUMARA KURUP,J.,

SRM

Order made in
Crl.O.P.No.16089 of 2019

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