



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.01.2022

CORAM:

THE HON'BLE MR.JUSTICE V. BHARATHIDASAN

Crl.O.P.No. 28508 of 2014
and M.P. No.1 of 2014

1. Dr. R. Rangarajan,
S/o. Late S.K.Rangasamy

2. Dr. Sakuntala Rangarajan,
W/o. Dr. R. Rangarajan

...Petitioners

Versus

1. State rep. by
Inspector of Police (L & O),
T7 Tank Factory Police Station,
Avadi, Chennai-600 054.

2. Ramadoss,
S/o. Parthasarathy

...Respondents

PRAYER : Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to quash the entire proceedings in F.I.R. in Crime No.687 of 2014 on the file of Inspector of Police, T-7, Avadi Tank Factory Police Station, Avadi, Chennai.

For Petitioners	:	Mr.M.Manivasagam Associates
For Respondents	:	Mr.C.E.Pratap, Govt. Advocate (Crl. Side) for R1 Mr.K.Balaji for R2

ORDER

(This case has been heard through video conference)

This Criminal Original Petition has been filed to quash the entire proceedings in F.I.R. in Crime No.687 of 2014, on the file of Inspector of Police, T7, Avadi Tank Factory Police Station, Avadi, Chennai.

2. The petitioners are arrayed as A1 and A2 in this case. The case of the defacto complainant is that, one Dharmalingam, who is arrayed as A3 in this case, is owner of the property in respect of Survey Nos.18/4 and 17/3 in Vellanur Village,



Ambattur Taluk, Tiruvallur District. On 29.10.1985, A3, Dharmalingam said to have executed a power of attorney in favour of defacto complainant in respect of total extent of 2.08 acres. Thereafter, he has formed a layout and sold some extent and retained an extent of 0.66 acres, which was in his possession. According to the defacto complainant, he has paid entire land cost to A3. Subsequent to that, without his knowledge, on 16.09.2013, A3 cancelled the power of attorney executed in favour of defacto complainant and entered into a sale deed in favour of petitioners/A1 and A2 on 15.10.2013 to an extent of 0.66 cents. He has further submitted that even before that, in the year 1982, the petitioners/accused have purchased the very same property from one Mannar Naidu, who has no right or title over the property. Subsequently, even though the defacto complainant has paid entire sale consideration, and the power is coupled with interest, without his knowledge, in order to cheat the defacto complainant, all the accused have hatched conspiracy and in furtherance of the same, the power of attorney has been cancelled and executed another sale deed in favour of petitioners.

3. Mr.M.Manivasagam, learned counsel appearing for petitioners would submit that, admittedly, without knowing the fact that A3 Dharmalingam was the owner of property, they have purchased the property from Mannar Naidu, much earlier to the power of attorney executed in favour of defacto complainant. After realising the fact that, the Mannar Naidu is not the owner of the property, with a bonafide intention, the petitioners have approached A3 to purchase the property and A3, after cancelling the power of attorney executed in favour of defacto complainant, sold the property to the petitioners for a valid consideration by means of registered Sale deed dated 15.10.2013. The defacto complainant is only a power agent and the power of attorney was admittedly cancelled on 15.09.2013 itself and he cannot have any grievance over the sale made in favour of petitioners. Only in order to harass the petitioners, the present complaint has been filed and absolutely no cognizable offence made out against the petitioners. Therefore, the F.I.R. is liable to be quashed.

4. Mr. K.Balaji, learned counsel for defacto complainant would vehemently content that, on knowing the fact that Mannar Naidu is not the owner of property, the petitioners have purchased the property. Thereafter, the petitioners compelled A3, who is owner of the property to cancel the power of attorney and entered into another sale deed without even cancelling the sale deed executed by Mannar Naidu. The learned counsel would further submit that earlier, in the year 2012, the petitioners tried to interfere with the possession of defacto complainant's property by creating false documents, wherein, they have filed a complaint, but the complaint was not registered. Hence, he has

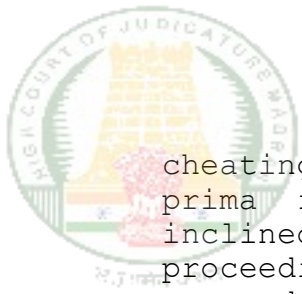


approached this Court seeking a direction and even after the direction issued by this Court, no F.I.R. has been registered. Subsequently, he has filed a contempt petition against the respondent. In order to escape from the criminal case, now the petitioners compelled A3, to cancel the power of attorney and entered into sale deed with an intention to cheat the defacto complainant. He would also submit that the defacto complainant has paid the entire sale consideration to A3 and after receipt of entire sale consideration, A3 has cheated him and sold the property in favour of petitioners. Hence, the complaint would clearly make out a cognizable offence and the respondent police, after considering the same registered the F.I.R. and there is no ground to quash the F.I.R.

5. Considered the rival submissions made by learned counsel appearing for both sides and perused the records.

6. The admitted fact in this case is that, A3 Dharmalingam, is the owner of the property. On 29.10.1985, he has executed a power of attorney in favour of defacto complainant for the total extent of 2.08 acres and the defacto complainant has also formed a layout and sold some extent of property and retained remaining extent unsold. Thereafter, 16.09.2013, A3, owner of the property, cancelled the power of attorney. After cancelling the power, on 16.10.2013 he has executed a sale deed in favour of petitioners/accused. Now, the main allegation in the F.I.R. is that, when the defacto complainant has paid entire sale consideration to A3 and after receiving entire sale consideration, only in order to cheat him, he has cancelled the power of attorney and subsequently, transferred the property in favour of petitioners. That apart, knowing the fact that A3 is the owner of property, the petitioners deliberately entered into a sale deed with one Mannar Naidu and without even cancelling the said sale deed, the petitioners conspired with A3 and entered into another sale deed, and he was cheated. The contention of defacto complainant cannot be countenanced for the simple reason that the defacto complainant is only a power agent. Subsequently, the power has been cancelled on 16.09.2013 and after cancelling the power deed, A3 transferred the property in favour of petitioners. Whether the petitioners have paid entire sale consideration or power is coupled with interest or not is a matter between the defacto complainant and A3 and the disputed question is to be decided by the civil court. If at all, the petitioners have any grievance, it is always open to him to approach the civil court to resolve the same.

7. So far as these petitioners are concerned, they have purchased the property from the original owner A3 after cancelling the power of attorney executed in favour of defacto complainant. In the above circumstances, the question of



cheating and criminal trespass does not arise and I find no prima facie case against the petitioners. Therefore, I am inclined to allow this Criminal Original Petition and the proceedings in F.I.R. in rime No.687 of 2014 on the file of 1st respondent is quashed. Accordingly, this Criminal Original Petition is allowed. Consequently, connected M.P. No.1 of 2014 is closed.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

rpp

To

1. Inspector of Police (L & O),
T7 Tank Factory Police Station,
Avadi, Chennai-600 054.

2. The Public Prosecutor,
High Court, Madras.

+1cc to Mr.M.Manivasagam, Advocate, S.R.No.2513

CRL.O.P.No. 28508 of 2014

PM(CO)
KKV/04/02/2022