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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.02.2022

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THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

CRL.O.P.No.18390 of 2021

and

Crl.M.P.Nos.10093 & 10095 of 2021

- 1.Veerapandi A.Raja @ Rajendran
 - 2.R.Shanthi
 - 3.Brindha
 - 4.P.Goushiga Bhoopathy
 - 5.C.Panneerselvam
 - 6.D.Kamaraj
 - 7.K.Sureshkumar @ Parapatti Sureshkumar
 - 8.S.Sekar
 - 9.S.Sengopttaiyan
 - 10.M.Ramu @ Gym Ramu
 - 11.Thathai Karthi @ Balachander
 - 12.John Alosias
 - 13.Prakash
 - 14.S.Lakshmanan
 - 15.Elangovan @ Shevapet Elangovan
 - 16.Arul @ Ammapet Arul
 - 17.Baskar @ Sabari Baskar
- ... Petitioners/Accused 1 to 17

Vs.



1.State Rep.by the Inspector of Police,
Central Crime Branch (CCB),
Salem City.

2.The Assistant Commissioner of Police,
Anti-Land Grabbing Special Cell,
Salem City.

3.P.Palanisamy

... Respondents /Complainants/
Defacto Complainant

Prayer : Criminal Original Petition has been filed under Section 482 of Criminal Procedure Code to call for the records pertaining to P.R.C.No.118 of 2020 against in Crime No.42 of 2011 on the file of the Judicial Magistrate No.1, Salem District and quash the same as illegal, incompetent and abuse of process in so far as the petitioners are concerned by allowing the present criminal original petition.

For Petitioners : Mr.AR Sundaresan
Senior Counsel
for AL Ganthimathi

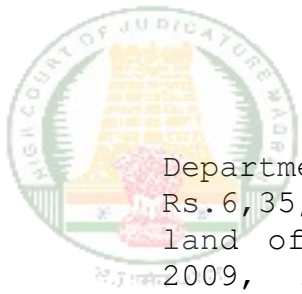
For Respondent : Mr.R.Vinoth Raja
Nos.1&2 Government Advocate (Crl.side)

For Respondent : Mr.N.Vijaya Basker
No.3

ORDER

The petitioners, who are the accused in Crime No.42 of 2011 and PRC No.118 of 2020 for offences under Sections 120(b), 341, 420, 423, 465, 468, 471, 294(b), 323, 324, r/w 511, 307, 386 and 506(ii) IPC and 82 of the Registration Act, have filed this quash petition.

2.The case of the prosecution is that the defacto complainant is a member of the Salem District Co-operative Agricultural Seva Society functioning at Five-Roads, Industrial Estate L-6, Salem, lodged a complaint. In the complaint, it is seen that the land to an extent of 1 Acre 2 cents in survey No.50/1, Patta No.109, Ariyampalayam, Salem Taluk, Salem, belongs to the Society. For the benefit of the Society, this property was purchased vide document No.2412 of 1973 on 02.08.1973 for a sale consideration of Rs.7,000/-. Of the total extent, 25 ½ cents of land was acquired by the National Highways



Department for its requirement, for which, they paid Rs.6,35,533/- to the Society as compensation and the balance land of 76 ½ cents was retained by the Society. In the year 2009, A18, the then Agriculture Minister late Veerapandi S.Arumugham along with others in order to dispose of the property, engaged Kamaraj A6. A1 Veerapandi Raja @ Rajendran son of A18. A2 Shanthi and A3 Prindha are the daughters-in-law of A18, whose family established VSA Engineering College in Ariyampalayam. This College was adjacent to the Society Land. For benefit and need of the College, all the accused conspired together in acquiring the Society's land, for which, a General Body Meeting was conducted on 14.09.2009 and Selvarasan, the approver passed a resolution to sell the land, for which, paper publication was published on 15.09.2009, in the paper publication, it was mentioned that the auction to be held on 15.10.2009. On that day, in order to participate in the tender auction, the defacto complainant and others entered the office, at that time, A10 to A13, A15 to A17 supporters of A18 Minister assembled there, restrained the bidders to enter into the auction centre. A14 the Inspector of police in support of other accused, brandished pistol, threatened the bidders, who entered the auction centre. When the defacto complainant and other bidders insisted to enter the auction hall, they were pushed down, assaulted and they were thrashed. Unable to bear the pain and to save their life, they ran away from the auction centre. Thereafter, auction was held. Further, A6, in this case, is none other than the benami of A18. On 20.11.2009, a sale deed was executed in favour of A6 vide document No.3976/2009. Thereafter, the approver Selvarasan on 22.08.2011 sent communication to A6 directing him to hand back the land to the Society. To avoid the case on him, A6 surrendered the land back to the Society by way of sale deed dated 08.09.2011 in document No.3254/2011 by receiving the sale consideration vide D.D.No.047191 and cancelled the earlier sale deed dated 20.11.2009 vide document No.3976 of 2009. Thereafter also, the accused continuously threatened the defacto complainant and others. Hence, a complaint was lodged on 06.10.2011 and a case in Crime No.42 of 2011 registered. On completion of investigation, charge sheet filed on 20.01.2014 listing LW1 to LW70 and documents. The lower Court initially took the case on file in C.C.No.430 of 2020 and later, found that the case to be committed to the Court of Sessions, numbered the case as PRC No.118 of 2020. Pending Committal, the above petition is filed.

3.The contention of the learned Senior counsel for the petitioners is that the first petitioner was Ex.MLA from 2006 to 2011 and son of Former Agriculture Minister late.Veerapandi



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S.Arumugham, who was arrayed as A18. Now, it is reported that A1 and A18 are dead. As against A1 and A18, the case stands abated. He further submits that A2 is the wife of A1. A3 is the sister-in-law of A1. Except for their marital relationship with A18 family, they have nothing to do in this case. A4, A8 and A9 are Personal Assistants of A18. A5 is the Ex-Deputy Mayor of Salem Corporation during the year 2006 to 2011. A6 the Successful bidder, who projected himself as Benami of A18. A7 is the brother's son of A18 Former Minister. A10 to A13, A15 to A17 are followers and supporters of A18. A14 was the then Inspector of Police, Kondalampatti Police Station. In this case, originally A.Selvarasan, Special Officer of the Agricultural Seva Society, was shown as A5. Later, he was became approver in this case. On 22.08.2011, a notice was sent to A6 Kamaraj, the purchaser of the property, who returned back the property to the Society. Thereafter, the sale deed was cancelled by document No.3254 of 2011. The bid amount of Rs.7,67,000/- was returned to Kamaraj A6 by way of DD. Now, the property is restored back to the Society.

4.The further contention of the learned Senior counsel for the petitioners submitted that the case of the prosecution is that A18 Former Agriculture Minister late Veerapandi S. Arumugham, father of A1 and father-in-law of A2 and A3, for the benefit and usage of VSA Engineering College run by their family, pressurized the Special Officer LW5 to bring the property for sale. Based on the pressure exerted by the then Minister, for the benefit of his family and aided by his supporters and personal assistants, LW5 was forced to call a General Body Meeting. The venue of General Body Meeting was not informed and without minimum quorum of 25 members resolution passed. At that time only 5 members participated in the venue and without the required quorum, the General Body Resolution was passed and by circulation concurrence was obtained. Thereafter, the date was fixed for public auction, public notice was issued. In the notice, General Public LW1 to LW4, who intended to participate in the auction, were not allowed, they were restrained, threatened, assaulted and chased away, thereby, the property, which was valued for several crores, was sold for a throwaway price of Rs.7,67,000/-. The entire statement of the witnesses as well as the approver is that it was A18, the then Minister, who initiated the proposal and forced the Special Officer to conduct such public auction. As regards these petitioners, except for some family members, others belong to the same political party of A1 and there is no other specific overt act against them. The sale deed executed was cancelled. Now, the property restored back to the Society. He further submits that even according to the approver, though he shown



some initial resistance, it was A18, who forced him by using threatening words. Further, the then Registrar of the Society came to Salem, who instructed the approver to follow the Societies by-law, rules and regulations and follow the same only, thereafter public auction held. The public auction not conducted properly, due to which, the property was sold to A6 Kamaraj at a lesser price and now, reverted back to the Society. The statements of other witnesses are to the effect that at the instigation of A18 prime accused, the entire sale of the land took place. Now, A18 the former Minister as well as A1 his son Former MLA are no more. The encumbrance created to the property cancelled, which is verified by the approver and confirmed. Further, the approver admits that earlier when he was arrested, he gave a statement, in which, he had not disclosed the facts but subsequently improved added few facts, involving several persons, which creates a doubt in the genuineness of the disclosure made by him. The approver's statement is without any corroboration on the material facts. Now, continuation of the proceedings against the petitioners would serve no purpose and it would only be ritual. Earlier, two of the petitioners filed CrI.O.P.No.8838 of 2020 before this Court seeking quashing of FIR in Crime No.42 of 2011. At that time, it was informed that investigation completed, charge sheet filed, taken on file in C.C.No.430 of 2020, pending on the file of Judicial Magistrate No.II, Salem. Recording the same, this Court dismissed the Criminal original petition, giving liberty to the petitioners to challenge the final report. Thereafter, another petition was filed in CrI.O.P.No.10949 of 2020, at that time, it was informed that the case was numbered as P.R.C.No.118 of 2020. In view of the same, the petitioners were given permission to withdraw the CrI.O.P.No.10949 of 2020 and to challenge the P.R.C. on 23.07.2020 and the criminal original petition was dismissed as withdrawn and now the present petition filed. Further, the continuation of the proceedings would amount to abuse of process of law, in view of the fact that the prime accused and his son are no more. Further, the statement of the Special officer and the others was that it was only, at the instance of A18 the then Minister, the entire occurrence took place. Further, submits that the defacto complainant appeared before this Court filed his affidavit stating no objection for quashing the final report in PRC.No.118 of 2020. It is further submitted that even before the registration of the FIR in this case, the property was surrendered, sale deed cancelled and the encumbrance created was removed on 22.08.2011. The property is reverted back to the Society.



5. The learned Government Advocate (Crl.side) appearing for the first and second respondents submits that in this case, on the complaint of the third respondent/defacto complainant, a case was registered on 06.10.2011. Thereafter, on completion of investigation, charge sheet filed for offences under sections 120-B, 341, 420, 423, 465, 468, 471, 294-b, 323, 324 r/w 511, 307, 386 & 506(ii) IPC and Section 82 of the Registration Act, 1908. In the FIR, though the provisions of Prevention of Corruption Act was included, during and after investigation, it was found that no offence under Prevention of Corruption Act made out and hence, it was deleted. In this case, A18 is the prime accused, who was the then Minister, on whose instigation other accused are said to have involved in the offence. The prime accused is no more. The procedure followed in calling the tenders for public action was not proper. The minimum quorum needed for the General Body Meeting to pass any resolution is 25 persons. In this case, only 5 persons were present and with regard to the other members, the same was obtained later through circulation. Hence, the resolution passed by the General Body Meeting is not a valid one. Further, when the Special Officer shown hesitation in bringing the land for sale, the head office directed LW63 N.Kalil Ahamed, the Cooperative Sub Registrar to inspect the land and to give the status report, who on 06.11.2008 on inspection, given a report stating that the Society land can be saved from the encroachers by fencing the property. Further, the Commissioner, Agricultural Department on 28.07.2009 directed the Special Officer to fence the property. Contrary to the same, the Special Officer on 10.10.2008 wrote a letter to the Commissioner, for his approval, who instructed the Special Officer to follow the by-laws, rules and regulations of the Society and to take appropriate action. Thereafter, the tender process was proceeded with. This was in violation of the earlier direction given by the Commissioner, Agricultural Department. Further, in the public notice, venue for tender was not provided. There was some confusion with regard to the same. The tender was held symbolically to show compliance of procedure. When the others wanted to participate in the tender viz., LW1 to LW4, they were not allowed to enter inside the tender hall, restrained, later, manhandled. This is clearly spoken by LW1 to LW4. LW5 the approver states about the pressure exerted by A18 the then Minister and thereafter, followed by his P.As and his party supporters, whereby, LW5 was compelled to bring the property for public action. The other witnesses, who are nearby residents, found there was commotion and restriction of people to enter into the tender hall. The presence of LW14 Inspector of police with force is stated by the other witnesses. A6 the successful bidder is none other than the Benami of A18.



The other witnesses viz., LW6 to LW19 are all hearsay witnesses. LW20 & LW21 are the persons, who participated in the General Body Meeting. LW22 is the person, who participated in the tender, but due to illness, he was not present throughout. LW23 to LW27 are witnesses, who are members of the Society, state about signing the resolution without reading the same. LW28 to LW31 are the members of the Society. LW32 member of the Society, states about not signing in any of the records. LW33 states about the participating in the open tender. LW34 to LW38 & LW41 are the witnesses, who were present on the tender day. LW42 states about re-conveying the property by A6. LW43 & LW44 are the witnesses to execution of the sale deed by the Special Officer. LW45 to LW47 are the witnesses for the arrest and confession. LW48 & LW49 are the VAOs, who state about the issuance of Patta, Chitta, Adangal, field map and the land belonging to the Agricultural Co-operative Society. LW50 to LW56 are the employees of the Society, who state about the functioning of the Society. LW57 to LW60 are the members of the other Society, who state about the Salem Seva Sangam selling the property by public action. LW61 is the Assistant Registrar, who states about rules and regulations of the Society. LW62 is the Commissioner, Agricultural Department. LW63 is the Sub Registrar, who conducted the field inspection. LW64 is the SSI attached to Kondalampatti police station, who states that he worked as Writer in the Kondalampatti police station and states about A14 taking the pistol along with him for his duty without recording the same in the station register. LW65 is the Judicial Magistrate, who recorded the 164 statement of LW5, LW66 is the Chief Judicial Magistrate, who conducted the questioning under Section 306 Cr.P.C. LW67 to LW70 are the Investigating Officers.

6. On completion of investigation, the final report was filed and now, the case is at the stage of committal. The defacto complainant appeared for the hearing on 19.06.2020, on which date, the defacto complainant was directed to appear before the respondent police, submit a copy of the withdrawal letter along with his identity proof. When CrI.O.P.No.9013 of 2020 was moved by A7 and A10, he submitted that the defacto complainant on 26.06.2020 gave a withdrawal letter to the respondent police stating no objection in quashing the case. The entire case revolves around A18, who is no more. Further, the Society's land to an extent of 76 ½ cents, in respect of which, encumbrance was created, cancelled and the land is now restored back to the Society.



7. This Court considered the submission and perused the materials on record, it is seen that the family members of A18 were having a college in the name of VSA Engineering College adjacent to 76 ½ cents land of the Society, which they attempted to take over for expansion of their Engineering College, for which, A6 was used as name lender. The Agricultural Seva Society held a General Body Meeting, thereafter, it was decided to bring the land for sale through public auction. As per the records, the quorum of 25 members signed the resolution. Thereafter, public notice was published in the Malaimalar daily vernacular newspaper on 05.09.2009, stating that the public action would be held on 15.10.2009. In the Public Auction, A6 declared Successful bidder and thereafter, sale deed executed in document No.3976 of 2009 on 20.11.2009. Earlier, for this proposal, the Special Officer LW5 wrote to the Commissioner, Agricultural Department seeking for his approval. LW63, Kalil Ahamed the Sub Registrar was deputed, who gave a report for retaining the property by the Society and to avoid the land encroachment, proper fencing to be placed. LW62 the Registrar Co-operative Societies came to Salem, he instructed LW5 to follow by-laws, Rules and Regulation of the Society in bringing the Society's land for sale. On his advice, further auction was carried out. The allegation that the Registrar, Cooperative Department issued instructions due to the pressure exerted by A18, the then Minister cannot be acceptable. The Registrar Department is a Senior officer in the cadre of Indian Administrative Services. The officials of the Society finding that the successful bidder quoted a lesser price than the market value and further, the sale was not beneficial to the Society, since in the year 2007 itself for 25 ½ cents, National Highways Department paid Rs.6,35,533/- as compensation to the Society. On the other hand, in the year 2009, for 76 ½ cents, the public auction price fixed at Rs.7,67,000/- is much low, which was found not proper and beneficial to the society. Hence, notice was issued to A6 the successful bidder, who cancelled the sale and reconveyed the property to the Society. A6 the successful bidder reconveyed the property on 08.09.2011 by document No.3254 of 2011 and the encumbrance now removed. The sale amount of Rs.7,67,000/- was repaid to A6 by way of DD by the Society. Hence, the defects were set right on 08.09.2011. This complaint was thereafter lodged on 06.10.2011 by the defacto complainant complaining that he was threatened by the accused. This appears artificial far fetched. There is no reason for the accused to threaten the complainant after the sale deed was cancelled and the property having restored to the Society. Now, the defacto complainant gave a withdrawal letter, further, filed an affidavit and appeared and reiterates that he is not interested in further



pursuing the case. LW5 the prime witness in his initial statement does not give any particulars, thereafter, later he improves his version. In the improved version, the statement is primarily against A18 the then Minister, who is no more now. The property is restored to the society. The society is in possession and enjoyment of the property. In such circumstances, proceeding with the case further would serve no purpose. In view of the same, this Court is inclined to quash the proceedings and accordingly, quashed and the criminal original petition is allowed. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-VII)

//True Copy//

Sub Assistant Registrar

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To

- 1.The Judicial Magistrate No.I,
Salem District.
- 2.The Inspector of Police,
Central Crime Branch (CCB), Salem City.
- 3.The Assistant Commissioner of Police,
Anti-Land Grabbing Special Cell,
Salem City.
4. The Public Prosecutor,
High Court, Madras.

+lcc to Mr.Law Vision, Advocate SR.No.13587

+lcc to Mr.AL.Ganthimathi, Advocate SR.No.13112

CRL.O.P.No.18390 of 2021

and

CrI.M.P.Nos.10093 & 10095 of 2021

NMI (CO)

GN(11/03/2022)