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Crl.OP.No.24660 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.10.2022

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THE HONOURABLE MR. JUSTICE V.SIVAGNANAM

Crl.O.P.No.24660 of 2022

and

Crl.M.P.No.15507 of 2022

1. D.Shanmugam
2. Rajiv Gandhi Pandian

... Petitioners

Vs.

1. The State of Tamil Nadu,
Represented by the Assistant Commissioner of Police,
Central Crime Branch-1,
Chennai District.
(Crime No. 147/2022)

2. The State of Tamil Nadu,
Represented by the Inspector of Police,
Prevention of Land Grabbing Special division-1,
Central Crime Branch-1,
Chennai District.

3. K.E.Sinivasan
Assistant,
Arulmigu Vadapalani Andavar Thirukoil,
Vadapalani,
Chennai-600 026.

... Respondents



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PRAYER: This Criminal Original Petition is filed under Section 482 of Cr.P.C., praying to call for the entire records pertaining to First Information Report in F.I.R.No.147 of 2022 dated 19.07.2022 registered under Sections 465, 467, 468, 471 r/w 34 IPC on the file of the first respondent and quash the same so far as the petitioners are concerned.

For Petitioners : Mr.A.Kalaiselvan
For Respondent 1 & 2 : Mr.S.Santhosh
Government Advocate(Crl.side)

ORDER

This Criminal Original Petition has been filed to quash the First Information Report in F.I.R.No.147 of 2022 dated 19.07.2022 registered under Section 465, 467, 468, 471 r/w 34 IPC on the file of the first respondent.

2. The case of the prosecution is that one Karabathira Swamigal was running an Ashramam in the name and style of “Anantha Ashramam”. Before his death, he had executed an unregistered Will, dated 03.04.1918, in which, he had nominated his three disciples to maintain the said Ashramam. While being so, dispute arose between them and a Civil Suit in C.S.No.154 of 1926 was filed before this Court, wherein, by an order dated 02.15.1927, the said Ashramam was



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directed to be maintained by the above said three disciples along with five other Non-Trustees. Thereafter, the property measuring an extent of 1624 Sq.feet which was alleged to be grabbed was originally purchased for Karabathira Swamigal Mutt by a registered sale deed dated 05.02.1937 and the property was in possession of the Ashramam. Thereafter, the Commissioner of Hindu Religious and Charitable Trust by his proceedings in Na.Ka.No.5867/83 dated 22.11.1984 had ordered the Assistant Commissioner of Arulmigu Vadapalani Andavar Thirukovil to take care of the properties of the above said Mutt. In such circumstances, one Ramamoorthy/A1 has executed a Power of Attorney deed in favour of petitioners herein registered as document No.286 of 2018. The allegation in the FIR indicates that the then President of the said Mutt had executed a registered Will in favour of one Nayagan, in turn, he had executed an unregistered Will in the name of A1 and the said Will was probated before this Court. Further, it indicates that one Nayagan had filed a suit in O.S.No.6567 of 1994 claiming rights over the above said Mutt and the same was dismissed. Thereafter, after his death, his legal heirs also filed O.P.No.775 of 2008 and A.No.5340 of 2010 for grant of probate and the same was dismissed by this Court. It is further seen that in the certified copy of the registered Document No.114 of



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1993, the above said property details were not found. It further indicates that there is another group of persons, who had registered the said property in the name of one Murugan and Saravanan and thereafter, the said property was purchased by one Muthulingam. Thereafter, the said Murugan registered the cancellation deed. Based on the above enquiry report and the complaint lodged by the defacto complainant, FIR was registered as against the accused persons for the offences under Sections 465, 467, 468, 471 r/w 34 IPC.

3. The learned counsel for the petitioners would submit that the petitioners are arrayed as A2 and A3 in Crime No.147 of 2022 for the offences under Sections 465, 467, 468, 471 r/w 34 IPC. He would further submit that the petitioners obtained General Power of Attorney dated 19.03.2018 which was registered as document No.286 of 2018 in the office of the Sub-Registrar, Sowcarpet. Based on which, they had executed the registered sale deed in favour of A4 and involved in a transaction. Apart from that, they had not involved in any fraudulent transaction and had not created any forged documents. He would submit that they are bonafide power holders. Based on



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the power, they made transaction and they had no knowledge about the title over the property by private individuals. Therefore, since they are noway connected with any fraudulent transaction and creation of any forged documents, they cannot be attracted in this case. Hence, they seek to quash the proceedings.

4. Learned Government Advocate(Crl.side) for the respondent police would submit that the matter is under investigation. As per the preliminary enquiry, it is found that originally the property stands in the name of Karapathira Sivaprakasa Swamigal Mutt. Under these circumstances, transaction done by the private individuals has to be investigated. Hence, he opposed to quash the proceedings.

5. Heard the learned counsel for the petitioner and learned Government Advocate (Crl.side) for the respondents and perused the entire materials available on records.



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6. On perusal of the records, it reveals that the petitioners are arrayed as A2 and A3 in Crime No.147 of 2022 for the offences under Sections 465, 467, 468, 471 r/w 34 IPC. On perusal of the complaint, the prima facie discloses that the disputed property involved in the transaction was in the name of Karapathira Sivaprakasa Swamigal Mutt. Under these circumstances, the property was transacted by several other persons and several litigations have been filed claiming title on various grounds. Under such circumstances, the petitioners also entered into the dispute, as a power agent. After getting powers, they made transaction. Therefore, the matter has to be investigated to find out the truth about the transaction done by the parties. Therefore, it does not meet the parameters laid down by the Supreme Court in *State of Haryana vs. Ch.BhajanLal (AIR 1992 SC 604)*, *M/s Neeharika Infrastructure Pvt. Ltd. Vs. State of Maharashtra and others (2021 SCC online 315)* & *PRATIBHA RANI Vs.SURAJ KUMAR & ANR (1985 Crl.L.J.817)*. Therefore, it is inappropriate to quash the FIR and close the investigation at the beginning stage. Therefore, I find no merit and investigation in this case is to be conducted to find out the truth.



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7. Accordingly, the criminal original petition is dismissed. Consequently, connected miscellaneous petition is closed.

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Internet : Yes / No

Index : Yes / No

Speaking / Non Speaking order
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To

1. The Assistant Commissioner of Police,
Central Crime Branch-1,
Chennai District.
2. The Inspector of Police,
Prevention of Land Grabbing Special division-1,
Central Crime Branch-1,
Chennai District.
3. The Public Prosecutor
High Court, Madras



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V.SIVAGNANAM,J.

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