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Crl.O.P.No.28750 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.12.2022

CORAM:

THE HONOURABLE MR. JUSTICE G.CHANDRASEKHARAN

Crl.O.P.No.28750 of 2022

1.N.K.Jinnah

2.J.Banu

...

Petitioners

Vs.

1.The Commissioner of Police,
Coimbatore District,
Coimbatore – 641018.

2.Saravanan

The Assistant Commissioner of Police,
land grabbing cell,
Commissioner office,
Coimbatore District,
Coimbatore 641 018.

3.Ananthajothi

The Inspector of Police,
R.S.Puram Police Station,
Coimbatore 641018.

...

Respondents

PRAYER: Criminal Original Petition filed under Section 482 Cr.P.C. praying to direct the respondents 1 to 3 to register this petitioners complaint dated 15.09.2009 and in C.No.795/PG/DCP North CBE/City 2022 dated 14/09/2022, C.No.318/ACP/ R.S.Puram Range/DCP/PG.22/dt.15.09.2022, 22.09.2022 and the complaint dated 09.10.2022 complaint No.412/2022.



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For Petitioners : M/s.V.Bagyalakshmi

For Respondents : Mr.S.Santhosh
Government Advocate (Crl. Side)

ORDER

This Criminal Original Petition is filed to direct the respondents 1 to 3 to register the petitioners complaint dated 15.09.2009 in C.No.795/PG/DCP North CBE/City 2022, dated 14/09/2022, C.No.318/ACP/R.S.Puram Range/DCP/PG.22/dt.15.09.2022, 22.09.2022 and the complaint dated 09.10.2022 in complaint No.412/2022.

2.The learned counsel for the petitioners submitted that the petitioners purchased a property in Old S.F.No.3451 & 3452 Block No.21 and site no.17 and 18 at Arokiaswami Road, East R.S.Puram, Coimbatore District in the year 1991 through registered sale deeds in document Nos.2876, 2870, 2871, 2872, 2873, 2874, 2875 & 2878 of 1991. On 11.03.2021, the documents were upgraded with Parassala Registered office and submitted to District Registrar Joint-I Coimbatore, for paying the difference in the stamp duty. When the first petitioner contacted the District Registrar to pay the difference in the stamp duty, he was informed that the documents have been forwarded to the



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Inspector General of Police, Chennai. The first petitioner was informed by the reliable sources that Mani @ Periyasamy has cancelled the sale deed executed in the year 1991 on 12.03.2021. It amounts to fraud. Therefore, the petitioners gave complaint in this regard to the Inspector of Police. The complaint is not registered so far, necessitating the filing of this petition.

3.The learned Government Advocate (Crl.Side) submitted that there are three claimants to this property, namely, 1.N.K.Jinnah 2.Paramasivam & 3.Ananthanarayanan. On the basis of the complaints of the three complainants received, enquiry was conducted in C.S.R.Nos.412, 413 & 414 of 2022 and the enquiry was pending. Therefore, the matter was referred to the RDO, through the registration of FIR in Crime No.409/2022 under Section 145 Cr.P.C. The matter is now pending for enquiry before the RDO. Section 145 proceedings was necessitated for the reasons that one Paramasivam along with henchman tried to demolish the compound wall on 08.10.2022, taking advantage of the ex-parte injunction order, dated 30.09.2022, obtained in O.S. No.1050/2022.



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4.The learned counsel for the petitioners further submitted that unilateral cancellation of sale is not permissible. It has been categorically decided in ***WP.No.(MD) Nos.6889, 8330, 13297 of 2020, 11674 of 2015 and W.A.(MD) No.800 of 2022 and C.M.P.(MD).No.6797 of 2022, dated 02.09.2022.*** It is not necessary for the petitioners to institute a suit for setting aside the cancellation deed.

5.Considered the rival submissions. Perused the records. It is seen from the submissions made by the learned counsel appearing for the parties and from the records that the petitioners purchased the aforesaid property through sale deeds dated 03.06.1991. As seen from the order of this Court in ***WP.No.(MD) Nos.6889, 8330, 13297 of 2020, 11674 of 2015 and W.A.(MD) No.800 of 2022 and C.M.P.(MD).No.6797 of 2022, dated 02.09.2022,*** unilateral cancellation of the sale deed is not permissible under law. It is now claimed that the owner unilaterally cancelled the sale deed on 20.02.2021. He also attempted to trespass into the suit property and damaged the property on 08.10.2022. In this regard, RDO enquiry is pending under Section 145 Cr.P.C. in Crime No.409/2021. Now, the petitioner wants registration of FIR for the reason that after receiving the entire sale consideration in 1991,



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executing the sale deed, cancellation of sale deed in 2001 is illegal and amounts to cheating and fraud etc., Therefore, the petitioners pray for the registration of the FIR on the basis of the complaint dated 09.10.2022.

6. The Division Bench of this Court in ***G.Prabhakaran v. The Superintendent of Police, Thanjavur***, reported in ***(2018) 2 LW Crl 489*** and the Hon'ble Supreme Court in its latest judgment rendered by a three Judge Bench in ***M.Subramaniam v. S.Janaki***, reported in ***(2020) 5 CTC 464***, after relying upon ***Sakiri Vasu's*** Case, has categorically held that the High Court cannot issue any direction for registration of FIR. High Court can intervene only in extraordinary circumstances and rare cases. However, taking note of the fact that the complaint is now being enquired, the Investigation officer is directed to issue notice to the parties and conduct enquiry as directed by the Hon'ble Apex Court in the case of ***Lalita Kumari Vs. Government of Uttar Pradesh and others [2014 (2) SCC (1)]***. If any cognizable offence is made out, the third respondent police is bound to register the FIR otherwise they may close the complaint. Such exercise shall be completed within a period of two weeks from the date of receipt of a copy of this order.



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7. With the above directions, this Criminal Original Petition is disposed

of.

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Internet: Yes

Index: Yes/No

Speaking/Non speaking order

To:

1. The Commissioner of Police,
Coimbatore District,
Coimbatore – 641018.

2. Saravanan

The Assistant Commissioner of Police,
land grabbing cell,
Commissioner office,
Coimbatore District,
Coimbatore 641 018.

3. Ananthajothi

The Inspector of Police,
R.S.Puram Police Station,
Coimbatore 641018.

4. The Public Prosecutor,
High Court of Madras.



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G.CHANDRASEKHARAN, J.

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