



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 08.03.2022

CORAM

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

Crl.O.P. (MD)No.1197 of 2022

and

Crl.M.P(MD)No.859 of 2022

WEB COPY

1.Kubendran
2.Maheswari @ Umamaheswari ... Petitioners/
Accused Nos.4 & 5

Vs.

1.The State represented by,
The Inspector of Police,
Anti-Land Grabbing Special Cell,
District Crime Branch,
Ramanathapuram.
(In Crime No.32 of 2021). ... 1st Respondent/
Complainant

2.G.Sasikala ... 2nd Respondent/
Defacto Complainant

Prayer: Criminal Original Petition filed under Section 482 Cr.P.C.,
to call for the records in F.I.R in Crime No.32 of 2021 on the file
of the first respondent, dated 17.09.2021 and quash the same so far
as the petitioners are concerned.

For Petitioners : Mr.R.Maheswaran

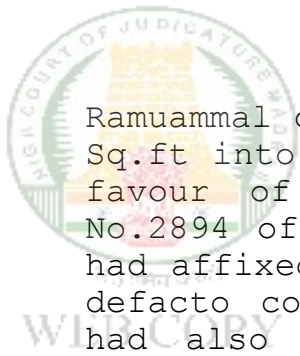
For R - 1 : Mr.B.Thanga Aravindh
Government Advocate (Crl. Side)

For R - 2 : Mr.G.Prabhu Rajadurai

ORDER

This Criminal Original Petition has been filed to quash the
F.I.R in Crime No.32 of 2021 on the file of the first respondent.

2.The case of the defacto complainant is that the property
bearing Door No.531C Pettaitheru, Paramakudi Town, measuring about
1221 Sq.ft belonged to her by virtue of sale deed, dated 22.06.2005
(Document No.1330 of 2002). It originally belonged to one Natarajan.
After his demise, children born through the first wife and the
children born through the second wife jointly executed a power of
attorney dated 29.08.1978 in favour of one Ramuammal, wife of
Sundarrajan Servai (Document No.18 of 1978). Based on the same,

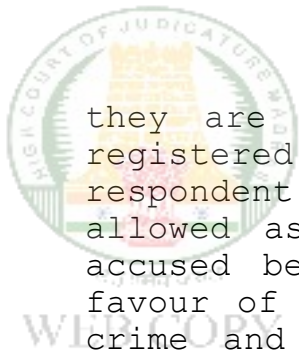


Ramuammal divided the property which measured a total extent of 1530 Sq.ft into two parcels. The parcel measuring 1221 Sq.ft was sold in favour of Vasanthi vide sale deed, dated 04.12.1986 (Document No.2894 of 1986). In the said sale deed, Pandiyammal/first accused had affixed her signature as a witness. From the said Vasanthi, the defacto complainant had purchased the property on 22.06.2005. She had also dealt with the property by mortgaging the same. The property is being assessed to tax in the name of the defacto complainant. Ramuammal who had taken power of attorney and was retaining 309 Sq.ft of land, had passed away without alienating the same. While so, the second wife of Natarajan, namely, Pandiammal/first accused and her daughter Saraswathi had sold 450 Sq.ft land in favour of one Maheswari, the second petitioner herein/Accused No.5. What was eventually purchased by defacto complainant was mortgaged in favour of Gnanasekaran, the fourth petitioner herein/Accused No.4 vide document, dated 12.07.2018. Accused Nos.2 and 3 are the executants of the documents, dated 08.02.2018 and 12.07.2018 respectively. It is not the case of the defacto complainant that Accused Nos.2 and 3 have forged her signature. They have not committed any act of impersonation. Accused Nos.2 and 3 are not parties to any of the transactions prior to 22.06.2005.

3.Heard the learned counsel appearing for the petitioner, the learned Government Advocate (Criminal Side) appearing for the first respondent and the learned counsel appearing for the second respondent.

4.In the above transaction, the petitioners are bonafide purchasers of the said property. They have lost their money by entering into mortgage deed and sale deed in respect of the said property, where Accused Nos.1 to 3 do not have any right. Even then, the petitioners are now arraigned as accused. That apart, the entire complaint does not constitute any offences under Sections 465, 468, 471, 420 and 120(B) of I.P.C, since they have not forged the signature of the defacto complainant and they have not impersonated any person originally under the property. Even the case of the prosecution is that A.1 to A.3 without title over the property, they executed sale deed and mortgage deed in favour of fourth and fifth accused/the petitioners herein. Therefore, they are nothing to do with the crime as alleged by the defacto complainant. In fact, A.1 to A.3 already challenged the F.I.R registered in Crime No.32 of 2021 before this Court in Crl.O.P(MD)No.17280 of 2021 and this Court, by an order dated 20.12.2021 observed that no offence is made out against Accused Nos.2 and 3. Insofar as the first accused is concerned, the quash petition was dismissed as not pressed and this Court directed the first respondent to leave out Accused Nos.2 and 3 while filing final report.

5.In view of the above, no offence is made out as against the petitioners since they are bonafide purchaser and mortgagee and



they are nothing to do with the crime. Accordingly, the F.I.R registered in Crime No.32 of 2021 on the file of the first respondent is hereby quashed and this Criminal Original Petition is allowed as against the petitioners alone. That apart, the sixth accused being the Sub-Registrar, who registered the documents in favour of the petitioners herein, is nothing to do with the above crime and the first respondent is directed to delete the sixth accused and file a final report within a period of twelve weeks from the date of receipt of a copy of this order, as against the other accused, if any cognizable offence is made out. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (CS I)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

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Note :

In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate / litigant concerned.

To

- 1.The Inspector of Police,
Anti-Land Grabbing Special Cell,
District Crime Branch,
Ramanathapuram.
- 2.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

Cr1.O.P(MD)No.1197 of 2022
08.03.2022

MGJ(30.03.2022) 3P 3C