



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 12/09/2022

CORAM:

THE HON'BLE MR JUSTICE G.ILANGO VAN

Crl.OP(MD)No.1385 of 2019

and

Crl.MP(MD)No.683 of 2019

1.Muniyandi
2.S.Alagarsamy
3.Luciya :Petitioners/Petitioners/A3 to A5

Vs.

1.The Inspector of Police,
District Crime Branch Police Station,
Dindigul District.
(Crime No.24 of 2017) : 1st respondent/respondent/
Complainant

2.M.Kamaraj : 2nd respondent/respondent/
De-facto complainant

Prayer: Criminal Original Petition is filed under Section 482 Cr.P.C., to call for the records relating to the final report made in CC No.321 of 2018 on the file of the Judicial Magistrate No.II, Dindigul in connection with crime No.24 of 2017 on the file of the 1st respondent police.

For Petitioners : Mr.V.R.Venkatesan

For 1st Respondent : Mr.SS.Madhavan
Government Advocate
(Criminal side)

For 2nd Respondent : Mr.V.S.Kishok Kumar



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O R D E R

This criminal original petition is filed seeking quashment of the case in CC No.321 of 2018 on the file of the Judicial Magistrate No.II, Dindigul.

2.The facts in brief:-

One Nagama Naidu, son of Kandasamy Naidu purchased the property in survey No.574/5 measuring about 94 cents from one Subba Pillai. After obtaining plan approval, they formed lay out and after plan approval, on 23/05/1994, the house plates were divided into plot Nos.23A, 23B and 23C. The legal heirs of the above said Kandasamy executed a power of attorney in favour of one Velraj, on 03/01/2008. From the above said Velraj, Marutha Pillai purchased 3625 sq. feet in plot No.23/C, who is the father of the de-facto complainant and the de-facto complainant purchased the plot Nos.23A and 23B. Later, in respect of Plot No.23/C, it was leased in favour of the complainant. So all the three house sites now belong to the de-facto complainant. During the UDR scheme of the above said property has been wrongly issued patta in favour of one Thangaraj and Murugesan. The above said patta has been



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issued in favour of A1 and A2 with the collusion of A6.

Upon which, a false power of attorney deed was executed in favour of A3 and A4. Upon the above said power of attorney, A5 entered into a sale agreement, on 18/08/2017. So all the accused persons are to be punished under sections 120(B), 420, 465, 468 and 471 IPC.

3. Seeking quashment of the same, A3 to A5 filed this petition.

4. Heard both sides.

5. As mentioned above, it is the case of the de-facto complainant to the effect that the property mentioned in the complaint has been purchased by him and later, he became the absolute owner in respect of the properties as per the settlement deed as mentioned above.

6. Now the case of the petitioners is that one Nallakannu and Arumugam approached them stating that they are owning patta lands measuring about 10813 sq. feet. They wanted the petitioners to find out the prospective buyers. Because of their old age only, they appointed the petitioners 1 and 2 as power of attorney and only on the



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basis of the power of attorney document, they entered into the sale deed with the 3rd petitioner and the relationship between the above said Kandasamy and Thangaraj and Murugesan were not known to them. They only informed that Thangaraj and Murugesan had given consent to Nallakannu and Arumugam for changing the patta. Only on the basis of the patta, that was standing in the name of Nallakannu and Arumugam, these petitioners were under the impression that they are the real owners of the property. At that time, they were not known the real character of the property. More over, the above said Kandasamy had given representation to reconvert the property because of earmarked for public use and thereafter, only he converted the above said land into three plots namely 23A, 23B and 23C. But by adopting a wrong method, the above said land was reconverted into by the above said Kandasamy and again, the legal heirs of the above said Kandasamy sold the property to various persons, from whom the de-facto complainant appears to have purchased the property. The property, which was earmarked for public was sold. So the sale itself is a void one and cannot be enforced.



7.The learned counsel appearing for the petitioners during the course of argument would also draw the attention of this court to the suit, which was filed by the 2nd respondent against Nallakannu and Arumugam and these petitioners before the District Court, Dindigul, in O.S. No.60 of 2018 for declaration that the property belongs to him absolutely and for declaration that the power of attorney standing in the name of A1 and A2 are void and in turn the sale agreement, that was entered into with the third petitioner was also void. The date of the plaint is 22/02/2018. It appears that still it is pending and no finality has been reached. It appears that after filing of the above said complaint only, the suit has been filed. According to the learned counsel appearing for the petitioners, the sale that was effected by the legal heirs of the Kandasamy in favour of the petitioners is totally valid and cannot be questioned. Only on the basis of the patta, it was standing in the name of the above said Nallakannu and Arumugam and they entered into the power of attorney. So according to him, absolutely, no criminality is involved in this issue. It is purely a civil matter.



8.The learned counsel appearing for the petitioners would rely upon the statement of the Village Administrative Officer and the Tasildhar for the purpose of argument that on the basis of the petition given by the above said Nallakannu and Arumugam and on the basis of the recommendation made by the Village Administrative Officer, he made a recommendation to transfer the patta and during the proceedings, on the basis of the objection made by the de-facto complainant namely Kamaraj, enquiry was undertaken and during the course of enquiry, it was found that during UDR scheme, the patta was issued in the name of the above said Nallakannu and Arumugam. So, it was restored to the original owners namely Thangaraj and Murugesan. The concerned Village Administrative Officer has stated that during the UDR scheme, patta was issued wrongly in the name of Nallakannu and Arumugam. So on that basis, he issued certificate. So according to the petitioners, only believing the patta proceedings, they entered into the power of attorney agreement with the above said persons. According to them, no criminality is involved. But there is a specific allegation to the effect that these petitioners are also joined together and entered into the above said transaction in pursuance of the conspiracy.



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9. Whether there was any conspiracy between the petitioners and the other accused persons is a matter for trial. The above said Thangaraj and Murugesan were granted patta in the capacity of President of the EB Colony Association. Then how, the petitioners 1 and 2 entered into the power of attorney with A3 without going through the records and title document is not properly explained by them. So the contention that they are only bona fide persons cannot be a matter for consideration in this petition. Since no document or circumstance has been brought on record and since enough material has been collected and final report has been filed before the concerned court and taken cognizance, this criminal original petition is liable to be dismissed.

10. In the result, this criminal original petition is **dismissed**. Consequently, connected Miscellaneous Petition is closed.

12.09.2022

Internet: Yes/No
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To,

- 1.The Judicial Magistrate No.II,
Dindigul.
- 2.The Inspector of Police,
District Crime Branch,
Dindigul District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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G . ILANGO VAN , J . ,

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