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CrI.O.P.(MD)No.20898 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 04.01.2022

CORAM:

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

CrI.O.P (MD)No.20898 of 2021

and

CrI.M.P. (MD)Nos.12011 & 12012 of 2021

1.Retna Kumar

2.Jothimuthu Lakshmi ... Petitioners/Accused No.1 & 2

Vs

1.The State rep. by
The Inspector of Police,
Panagudi Police Station,
Panagudi,
Tirunelveli District.
(Crime No.138 of 2018) ...1st Respondent/Complainant

2.Subramanian ...2nd Respondent/Defacto Complainant

PRAYER: Petition filed under Section 482 Code of Criminal Procedure, to call for the records in connection with Crime No.138 of 2018 on the file of the Inspector of Police, Panagudi Police Station, Panagudi, Tirunelveli District and C.C.No.279 of 2019, on the file of Judicial Magistrate, Valliyor and quash the same in respect of the petitioners.

For Petitioners	: Mr.S.Palani Velayutham
For R1	: Mr.E.Antony Sahaya Prabahar Additional Public Prosecutor

ORDER

Heard the learned counsel appearing for the petitioners and the learned Additional Public Prosecutor appearing for the first respondent.

2. This Criminal Original Petition has been filed to quash the proceedings in C.C.No.279 of 2019 on the file of the Judicial Magistrate, Valliyoor.



3. The defacto complainant is the second respondent herein. His categorical stand is that he had parted with a sum of Rs.2,21,75,000/- to the petitioners herein for purchasing the land belonging to them. After he parted with the consideration, he came to know that the petitioners had entered into transaction in respect of the same property with the third parties.

4. The learned Additional Public Prosecutor also would point out that against the petitioners, three other cases of similar nature are pending.

5. In view of these circumstances, it is not possible for this Court to invoke its inherent powers to quash the impugned proceedings. The petitioners have been specifically named by the defacto complainant and overt acts have been attributed to them. The defacto complainant has also set out as to how he had suffered a huge wrongful loss. Therefore, this is not a case in which power under Section 482 of Cr.P.C., can be invoked. Leaving open the petitioner's defences and contentions, this Criminal Original Petition is dismissed.

6. However, taking note of the overall facts and circumstances, the personal appearance of the petitioners before the court below is dispensed with. The learned trial Magistrate shall insist on the personal appearance of the petitioners only when it is absolutely necessary and imperative. The petitioners shall be called upon to appear in person before the trial Court at the time of answering the charges and at the time of examination under Section 313 of Cr.P.C., and at the time of pronouncement of Judgment. On all other occasions, the petitioners can be represented through their counsel. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(AD-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 Judicial Magistrate, Valliyor, Tirunelveli District.

2. The Inspector of Police,
Panagudi Police Station,
Panagudi, Tirunelveli District.

3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

Crl.O.P (MD) No.20898 of 2021
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TR(31.01.2022) 3P 4C