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Crl.OP.Nos.11059 & 15822/2016

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 16.10.2023

CORAM

THE HONOURABLE MR. JUSTICE S.S.SUNDAR

AND

THE HONOURABLE MR. JUSTICE SUNDER MOHAN

Crl.OP.Nos.11059 & 15822/2016

1.P.Vijay Nataraj
2.Mrs.V.Shanthi
3.V.Rajesh
4.M/s.Universal Fertilizer Corporation
No.14, Abdul Rahim Road
Race Course Road, Red Field
Coimbatore 641 018.

.. Petitioners /
A1 to A4 in both the Petitions

Vs

The Assistant Director
Directorate of Enforcement
No.84, Greams Road
Thousand Lights
Chennai 600 006.

.. Respondent in
both Petitions



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Prayer in Crl.OP.No.11059/2016:- Criminal Original Petition filed under Section 482 of Cr.P.C., to quash the summons in CC.No.36/2015 on the file of the learned Principal Sessions Judge, Chennai.

Prayer in Crl.OP.No.15822/2016:- Criminal Original Petition filed under Section 482 of Cr.P.C., to quash the complaint in CC.No.36/2015 on the file of the learned Principal Sessions Judge, Chennai.

For Petitioners in both Petitions	:	Mrs.Ar.L.Gandhimathi Senior Counsel for Mr.L.Palanimuthu
For Respondent in both Petitions	:	Mr.S.Sasikumar Special Public Prosecutor [Directorate of Enforcement]

COMMON ORDER

[Order of the Court was made by S.S.SUNDAR, J.,]

- (1) Since the issues involved in both the Petitions are common and that parties are same, the following common order is passed.
- (2) Crl.OP.No.11059/2016 is filed by the petitioners seeking to quash the summons issued to the petitioners in CC.No.36/2015. Crl.OP.No.15822/2016 is filed seeking to quash the complaint in CC.No.36/2015.



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(3) This Court need not go into the facts of the case in view of the subsequent events.

(4) The petitioners 1 to 3 appear to have executed Sale Deeds in respect of their properties. However, the purchaser appears to have given a complaint for selling the properties which had already been included in the development plan prepared under Section 28 of the Town and Country Planning Act, 1971. The purchaser of the properties has given the complaint that he had been cheated by the petitioners by selling the properties which do not belong to the petitioners 1 to 3. After registration of the said complaint vide FIR No.94 dated 07.11.2009, the complainant also sought for recovery of the money which he had paid to the petitioners as sale consideration. On receipt of the FIR, the respondent registered a case under Section 3 of Prevention of Money Laundering Act, 2002, on 18.02.2010 in ECIR No.13/2010 which was later taken on file as CC.No.36/2015. The said complaint was under Section 45 [1] read with 3, 4 and 8[5] of the Prevention of Money Laundering Act, 2002.



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(5)The reasons for registering the second FIR under the provisions of the Prevention of Money Laundering Act, 2002 is that the petitioners have committed the offence of cheating and fraud on the person who had purchased the properties and that the petitioners are in possession of the proceeds of the crime.

(6)It is now stated that the complaint that was originally filed by the purchaser who purchased the properties from the petitioner in Crime No.94/2009, was pending in CC.No.284/2011 on the file of the Principal District and Sessions Court, Chennai and the petitioners 1 to 3 herein had filed CMP.No.5263/2011 seeking discharge. The said petition was dismissed, as against which, they filed CRP.No.41/2015 before this Court and the said Revision is pending.

(7)It appears that the properties sold by the petitioners herein in favour of defacto complainant had been included in the scheme framed under the Coimbatore Master Plan under G.O.Ms.No.651, Housing and Urban Development Department dated 12.10.1994 and reserved for a public purpose. Since the lands of the petitioners 1 to 3 was not acquired from the petitioners so far, they were free to sell and the Sale Deeds as such, is



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not vitiated on any ground. However, the defacto complainant without knowing the legal implication of the provisions of the Town and Country Planning Act, probably, filed a complaint against the petitioners for serious offences.

(8) Earlier, this Court though rejected the Revision in Crl.RC.No.41/2015, challenging the order of the District and Sessions Court, Coimbatore, in CC.No.41/2015, refusing to discharge the petitioners in connection with CC.No.284/2011, disposed of the writ petition in WP.No.417/2022 holding that the lands in question are the properties of the petitioners and therefore, they have every right to execute the Sale Deeds in respect of the properties to anyone they like. It is on the basis of the order passed by this Court in the writ petition, the Criminal Appeal in Crl.A.No.1448/2022 as against the order passed by this Court dated 10.08.2021 in Crl.OP.No.9763/2018, was allowed by the Hon'ble Supreme Court on 05.09.2022. Since the petitioners are now discharged from the predicate offence, the complaint in CC.No.36/2005 has no legs to stand.



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(9)Therefore, the summons as well as the complaint in CC.No.36/2015 on the file of the learned Principal Sessions Judge, Chennai, are hereby quashed.

(10)The Criminal Original Petitions stand **allowed**.

[SSSRJ] [SMJ]
16.10.2023

Internet : Yes / No
AP
To

- 1.The Principal District and Sessions Judge
Chennai.
- 2.The Assistant Director
Directorate of Enforcement
No.84, Greams Road
Thousand Lights
Chennai 600 006.
- 3.The Special Public Prosecutor
Directorate of Enforcement,
Chennai.



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