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Crl.O.P.No.5492 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **01.11.2023**

CORAM:

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

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and

Crl.M.P.Nos.2691 & 2692 of 2018 and 13926 of 2019

1.Krishnaveni
2.Vimala
3.Vennila
4.Nirmala
5.Lakshmi

... Petitioners/Accused[A3 to A7]

Vs

1.The State represented by
Inspector of Police,
Land Grabbing and Prohibition,
Special Wing,
Vellore.

2.P.J.David

... Respondents

Prayer: Criminal Original Petition filed under Section 482 Cr.P.C. to call for the records pertaining to the Final Report in C.C.No.106 of 2017 on the file of the Learned Judicial Magistrate-III, Thirupattur, Vellore district and quash the same.



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For Petitioners : Mr.I.Periaswamy
For 1st respondent : L.Baskaran
Government Advocate (Crl.Side)
For 2nd respondent : No apperance

ORDER

This criminal original petition is filed to quash the proceedings in C.C.No.106 of 2017 on the file of the learned Judicial Magistrate-III, Thirupattur, Vellore District.

2. The case of the prosecution is that the property comprised in Survey No.43/1A situated at Athanoor Village, Yelagiri, Thirupattur was owned by one Late Govindaraj, who is the father of the accused A3 to A6 and the husband of the accused A7. While he was alive, he had executed a Sale Deed in respect of the said property in favour of the *de facto* complainant/second respondent on 13.08.1990 *vide* Document No.758 of 1990. Thereafter, he died in the year 2000. After a period of seven years, the accused A3 to A6 being the daughters of the deceased vendor and the wife/A7 colluded with A2 who is the paternal uncle of the accused A3 to A6 had executed a sale deed in favour of the A2 dated 14.03.2007 *vide* document No.684 of 2007. Hence, the complaint.



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3. On receipt of the said complaint, the first respondent/police had registered the First Information Report in Crime No.43 of 2015. After the completion of the investigation, the first respondent/police had filed a final report for the offences under Sections 420, 465, 468, 471, 506(i) of IPC @ 120(B), 420, 423, 447, 465, 468, 471, 506(i) of IPC.

4. The learned counsel for the petitioners would submit that the petitioners are arrayed as A3 to A6, the daughters and A7, the wife of the deceased vendor. They are illiterate people. Utilising the said circumstances, their paternal uncle viz., the accused A2 dragged them to the Sub-Registrar Office and made them to execute a sale deed in favour of him in respect of the subject property. Therefore, they have nothing to do with the crime as alleged by the prosecution. That apart, the sale deed executed in favour of the accused A2 was already cancelled by the Sub-Registrar, Jolarpet as per the orders of the District Registrar, Vellore. Therefore, the accused 3 to 7 are innocent and no benefit was attained by them due to the said transaction. Though, notice was served on the second respondent and the counsel, no one entered appearance before this Court either in person or through Pleader.



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5. The learned Government Advocate (Crl.Side) appearing for the first respondent would submit that there are totally seven accused, in which, the petitioners herein are arrayed as A3 to A7. Originally, the subject property belonged to the deceased Govindaraj, the father of the accused - A3 to A6 and the husband of A7. The said Govindaraj already sold out the property by a sale deed in favour of the *de facto* complainant/second respondent *vide* document No. 758 of 1990. The petitioners being the legal heirs of the deceased vendor executed a sale deed in favour of the accused - A2. Therefore, they had committed serious offence and as such, the grounds raised by the petitioners cannot be considered to quash the entire proceedings.

6. Heard Mr.I.Periaswamy, learned counsel for the petitioners , Mr.L.Baskaran, Government Advocate (Criminal Side) appearing for the first respondent. There is no representation for the second respondent.



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7. Totally, there are seven accused in this case, in which, the petitioners are arrayed as the accused-A3 to A7. Admittedly, the subject property belonged to the the deceased Govindaraj, the father of the accused A3 to A6 and the husband of the accused A7. He had executed the sale deed in favour of the *de facto* complainant/second respondent on 13.08.1980 *vide* document No.758 of 1990 and in the year 2000, he was died. Thereafter, the petitioners being the legal heirs had executed a sale deed in favour of the accused A2 who is none other than their own paternal uncle. Admittedly, the petitioners are illiterate and the accused A3 to A6 had got married and living separately in various places. Utilising the said circumstances, accused-A2 who is none other than the paternal uncle of the accused-A3 to A6 conspired with the accused-A1 who is none other than the neighbour land owner and executed a sale deed in his favour. Therefore, the petitioners had no knowledge about the execution of sale deed in favour of the accused A2. Further, the Sub-Registrar, Jolarpet cancelled the sale deed as per the orders of the District Registrar, Vellore. Further, the second respondent had also filed a petition in O.S.No.75 of 2015, on the file of the Sub-Court, Thirupattur for injunction in respect of the subject property and the same is



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pending as against the first accused. It is also seen that the second accused had also filed a suit in O.S.No.227 of 2009 on the file of the Principle District Munsif, Thirupattur for injunction as against the *de facto* complainant/second respondent and the same was dismissed with cost. Therefore, the second accused only had committed offence in order to cheat the defacto complainant/second accused. He had full knowledge that the accused A3 to A7 had no title over the property. Even then, utilising their illiteracy made them to execute the sale deed in his favour. The second accused being the brother of the deceased vendor also claims title over the property and as such, he instigated the petitioners to execute the sale deed in his favour. Now, the sale deed executed in favour of the second accused also cancelled by the Sub-Registrar, Jolarpet as per the order of the District Registrar, Vellore. The petitioners are living separately in various places with their family members.

In view of the above, this Court is inclined to quash the proceedings in C.C.No.106 of 2017, pending on the file of the learned Judicial Magistrate-III, Thirupattur, Vellore District as against the petitioners alone.



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Accordingly, the criminal original petition is allowed. Consequently,
connected miscellaneous petitions are closed.

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Internet: Yes

Index: Yes/No

Speaking Order/Non-speaking Order

Neutral Citation: Yes/No

To

1. The Judicial Magistrate Court-III,
Thirupattur, Vellore District.
2. The Inspector of Police,
Land Grabbing and Prohibition,
Special Wing,
Vellore.
3. The Public Prosecutor,
High Court, Madras.



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