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Crl.O.P.No.6023 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.11.2023

CORAM:

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

Crl.O.P.No.6023 of 2020
and Crl.M.P.No.3384 of 2020

1. Asokan
2. Sivasankar

...Petitioners

-Vs-

1. State by
Inspector of Police,
District Crime Branch,
Thiruvallur District.
(Crime No.10 of 2020)

2. Sankaran

... Respondents

Prayer: Criminal Original Petition filed under Section 482 of Code of Criminal Procedure, to call for the records in Crime No.10 of 2020 on the file of the Inspector of Police, District Crime Branch, Thiruvallur District and quash the same.

For Petitioners : Mr.K.Balu

For R1 : Mr.L.Baskaran
Government Advocate (Crl.side)
For R2 : Mr.M.Soundar Vijay Arul Ram
for Mr.R.C.Paul Kanagaraj



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ORDER

This Criminal Original Petition has been filed to quash the FIR in Crime No.10 of 2020 on the file of the Inspector of Police, District Crime Branch, Thiruvallur District.

2. Heard the learned counsel for the petitioners, the learned Government Advocate (Crl.side) for the first respondent and the learned counsel for the second respondent and perused the materials available on record.

3. The second respondent lodged a complaint before the first respondent alleging that he owned properties ad-measuring 1 acre and 10 cents comprised in S.No.43/1, ad-measuring 2.07 acres comprised in S.No.20/1A2, 72 cents comprised in S.No.20/1B2, 37 cents comprised in S.No.49/2B situated at Kilmanabedu Village, Poonamallee Taluk and Thiruvallur District. The accused approached the defacto complainant to purchase the said properties. The defacto complainant also agreed to sell the properties and entered into an agreement for sale, on 06.07.2015. Accordingly, the total consideration was fixed at Rs.8 Crores and 6 Lakhs for the total extent of 4.03 acres. The essence of the contract period is



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within one month. On the date of agreement, the accused had paid a sum of Rs.2,25,00,000/-. However, even after the completion of the agreement period, the accused did not come forward to register any sale deed. They also fabricated the sale agreement as essence of the contract period as ten months from one month. They also had taken possession of the subject property and refused to return back the possession of the subject property. Hence, the complaint.

4. On receipt of the complaint, the first respondent registered FIR in Crime No.10 of 2020 for the offences punishable under Sections 420, 465 and 447 of IPC.

5. A perusal of the agreement for sale dated 06.07.2015 revealed that it is an agreement for sale and it is registered vide Document No.2754 of 2015. A certified copy of the agreement for sale is produced before this Court. It shows that the essence of the contract period is within ten months. The said clause is clearly counter signed by both the parties. It also contains a specific clause that any dispute arising out of this agreement will be settled through the arbitration proceedings in accordance with the provisions of the Arbitration and Conciliation Act,



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1996, the venue of Arbitration in Chennai. There was some dispute between them while execution of sale deed. Therefore, both the parties agreed to appoint an Arbitrator to deal with the issues. Accordingly, Hon'ble Mr.Justice T.Ravindran, Former Judge of this Court was appointed as a Sole Arbitrator and the arbitration proceedings is going on. The next hearing date is fixed on 10.01.2024 by the learned Arbitrator.

6. Further, on perusal of the entire complaint, the crux of the allegation is that the petitioners fabricated the agreement by changing the contract period as ten months from one month. However, the certified copy of the agreement revealed that the said allegation was duly counter signed by both the parties and it is a registered agreement for sale. It seems that already the possession of the subject property was handed over in favour of the petitioners, even before the completion period of ten months as per the agreement dated 06.07.2015. The petitioners caused legal notice on 23.11.2015, thereby called upon the second respondent to produce the legal heirship certificate of Sundaravadivelu, legible copy of Partition Deed No.3032 of 1970 and photo copy of the Sale Deed No.6782 of 1991 in which 4080 sq.ft of land sold in Survey No.20/1A2.



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It was further stated that they had measured the subject land with Firka Surveyor and found that there were certain encroachment on southern and western side of the subject property to an extent of 10 cents, with a view to prevent further encroachment on the subject land, they had put up a compound wall on southern and western side on their own cost. Therefore, they called upon the second respondent to resurvey the land with the help of Firka Surveyor and shall make arrangements for construction of remaining compound wall. However, it was duly received and no reply was sent by the second respondent. Therefore, the petitioners were constrained to send another notice dated 22.08.2016, thereby called upon the second respondent to furnish the required documents and resurvey the land with Firka Surveyor and make arrangements to construct the remaining compound wall to avoid delay in completing the sale formalities.

7. It seems that the second respondent did not even reply for the legal notice which was sent by the petitioners. It shows that they failed to show any interest to sell the property after receiving balance sale consideration. That apart, the crux of the allegation is that the petitioners



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failed to come forward to pay the balance sale consideration for execution of sale deed. It is not the case of the prosecution that the possession was already handed over to the petitioners. Therefore, no offence is made out under Sections 420, 465 and 447 IPC as against the petitioners. Further, all the allegations are civil in nature and if at all there is any grievance over the agreement, the second respondent can very well approach the Civil Court for appropriate remedy. The present impugned FIR is nothing but a clear abuse of process of law and it is given criminal color to a civil dispute. Such an exercise is nothing but a clear abuse of process of law, which must be discouraged in its entirety.

8. In view of the above, the impugned FIR cannot be sustained as against the petitioners and it is liable to be quashed. Accordingly, the FIR in Crime No.10 of 2020 on the file of the Inspector of Police, District Crime Branch, Thiruvallur District, is hereby quashed.



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WEB COPY 9. Accordingly, this Criminal Original Petition stands allowed.

Consequently, connected Miscellaneous Petition is closed.

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Internet: Yes

Index : Yes/No

Speaking/Non Speaking order

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G.K.ILANTHIRAIYAN. J.

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To

1. The Inspector of Police,
District Crime Branch,
Thiruvallur District.
2. The Public Prosecutor,
High Court, Madras.

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