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CrI.O.P.No.6364 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.06.2023

CORAM

THE HONOURABLE MR. JUSTICE SUNDER MOHAN

CrI.O.P.No.6364 of 2021

and

CrI.M.P.No.4239 of 2021

Subashini

... Petitioner

Vs.

1.State Rep. by
The Inspector of Police,
Anti Land Grabbing Special Cell,
Tiruppur District,
Tiruppur,
Cr.No.34/2013.

2.S.Easwaran

... Respondents

PRAYER: Criminal Original Petition filed under Section 482 of the Criminal Procedure Code to call for the records relating to impugned proceedings in CC.NO.161 of 2020 on the file of the learned Judicial Magistrate, Palladam and quash all further proceedings and to pass such further or other orders as this Hon'ble court.

For Petitioners : M/s.Prakash Adiapadam

For Respondents : Mr.A.Damodaran,Addl. Public Prosecutor [R.1]

: Mr.MA.P.Thangavel [R.2]



ORDER

The petition is to quash the final report filed for the alleged offences under Sections 120(b), 419, 467, 468, 471 IPC and 82(d) of the Registration Act.

2. It is alleged in the final report that the petitioner who is shown as A.9 in the final report, in conspiracy with the other accused had purchased a property which belonged to the de facto complainant. It is alleged that the predecessor-in-title of the persons who had entered into a sale agreement with the 9th accused had impersonated the original owners of the property and executed various documents and thus, the predecessor-in-title of the vendors, who had entered into a sale agreement with the petitioner, have no title over the suit property and by falsely claiming title over the disputed property have executed a sale agreement.

3. The learned counsel for the petitioner would submit that the allegations in the final report only suggest that there is a dispute with regard to the title of the disputed property. Even assuming that the de facto complainant has title over the property, the allegation against the petitioner



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cannot be sustained. It is alleged that the predecessor-in-title of the accused

A.1 to A.8 had impersonated the original owners of the property in the year

1955 and the petitioner cannot be held liable for the said impersonation. The

petitioner was not even born in the said year. The petitioner is a bonafide

purchaser who had entered into a sale agreement and since the vendors did

not come forward to execute the sale deed, she had filed a suit for specific

performance before the Principal District Court, Tiruppur in

O.S.No.346/2009 and the said suit was decreed and pursuant to the said

decree, a sale deed was executed in her favour in the execution proceedings.

The de facto complainant had filed a suit OS.No.166 of 2017, on the file of

the District Munsif, Palladam against the petitioner and others praying for a

declaration of title in respect of the disputed property. The said suit was

dismissed for non-prosecution and the de facto complainant had not taken

any steps to restore the said suit. In such circumstances, the impugned

proceedings as against the petitioner is unsustainable as no offence is made

out.



4. The learned counsel for the de facto complainant and the learned Additional Public Prosecutor on the other hand submitted that there are allegations to show that the predecessor-in-title of the accused A.1 to A.8 had impersonated the original owners of the property and executed a sale deed and hence the petitioner has no title over the property. The vendors had falsely claimed title over the property based on certain impersonated documents and had entered into a sale agreement with the petitioner. The learned counsel submitted that impersonation is further proved by the fact that a document by which the accused claim title is said to have been executed by one "Paati" after she died in the year 1955. The matter has to be adjudicated only before the Trial Court and hence, prayed for the dismissal of this quash petition.

5. This Court, on perusal of the impugned final report finds that the allegation is that the accused A.1 to A.8 had claimed title on the basis of certain impersonated documents executed by their predecessor-in-title. They had executed a sale agreement in favour of the petitioner/A.9. The petitioner had filed a suit for specific performance and the said suit was decreed by the judgement and decree dated 06.01.2010. Thereafter, she had initiated



execution proceedings and a sale deed was executed pursuant to the execution proceedings by the accused A.1 to A.8 in her favour.

6. The de facto complainant on the other hand claims that since the predecessor-in-title had obtained the property by impersonation, they have no right to execute a sale deed and all subsequent sale deeds are invalid. There cannot be any quarrel with that proposition. In a Criminal Prosecution, the Court is not called upon to decide title of the property. It is for the parties concerned to establish the title before the Civil Court concerned.

7. However, the short question that is involved in the instant case is whether the petitioner can be made guilty of an offence which is said to have been committed by the predecessor-in-title of the accused A.1 to A.8, in the year 1955. This Court is of the view that the criminal law cannot be extended to prosecute the petitioner in such circumstances. There is absolutely no evidence to show that the petitioner was aware of the alleged impersonation and thereafter had entered into a conspiracy with the other accused to purchase the property. The fact that she is a bonafide purchaser



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is seen from the fact that she had filed a suit for specific performance and obtained decree and thereafter a sale deed was executed in her favour in the execution proceedings. As stated earlier, this Court is not called upon to decide whether she is entitled to the property. The false claim of title by her vendors cannot be considered to prosecute the petitioner for the alleged offences. The petitioner admittedly had not forged any document or committed any act of cheating to attract the offences alleged. Therefore, this Court is inclined to quash the impugned proceedings in so far as the petitioner alone is concerned.

8. Accordingly, the Criminal Original Petition is allowed. Consequently, connected Criminal Miscellaneous Petition is closed.

19.06.2023

Index : Yes/No
Internet : Yes/No
Neutral Citation : Yes/No
shr



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To,
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- 1.The Inspector of Police,
Anti Land Grabbing Special Cell,
Tiruppur District,
Tiruppur,
- 2.The Judicial Magistrate, Palladam.



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SUNDER MOHAN. J,

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