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CrI.O.P.No.8066 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.04.2023

CORAM

THE HONOURABLE MR. JUSTICE SUNDER MOHAN

CrI.O.P.No.8066 of 2021

and

CrI.M.P.No.5316 of 2021

- 1.Lukose O.J.
- 2.Ponnamma Lukose
- 3.Sukumara

... Petitioners

Vs.

- 1.The State Rep. by
Inspector of Police,
Central Crime Branch
ALGSC-I, Team -16
Vepery, Chennai -600007

2. Mohanakrishna

... Respondents

PRAYER: Criminal Original Petition filed under Section 482 of the Criminal Procedure Code seeking to call for the records pertaining to the proceedings in FIR No.27 of 2021 on the file of the 1st respondent police.

For Petitioners : M/s.K.V.Bhashyam Chari

For Respondent : Mr.A.Damodaran, Addl. Public Prosecutor, [R.1]
: Mr.M.Rajindiran [R.2]



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ORDER

The petition is to quash the FIR filed for the alleged offences under Sections 419, 465, 467, 468, 471 read with Section 34 IPC.

2. It is alleged in the FIR that the 1st petitioner had created a power of attorney in his favour by impersonating one K.S.Lakshmi and sold the properties to his wife and thereafter his wife sold the properties to third parties.

3.(a). The learned counsel for the petitioner would submit that this is a civil dispute and the 2nd respondent had filed a suit in OS.No.636 of 2014. In the said suit he had prayed for declaring the Power of Attorney and the subsequent sale deed as void. However, the 2nd respondent had not pursued the said suit and the said suit was dismissed for default on 18.12.2019. While so, the 2nd respondent has come up with this impugned FIR nearly 2 years after passing of the said judgement. Having failed in the civil proceedings, the 2nd respondent cannot be allowed to agitate a civil dispute before the police.



3.(b). The learned counsel for the petitioners further submitted that the alleged Power of attorney through which the 2nd respondent claims the title on the property was executed only on 12.12.1997, whereas the sale deed based on the said power of attorney was executed on 10.12.1997. This also would show that his documents by which he claims title are not in order.

4. The learned counsel for the 2nd respondent however would submit that the allegation is that the 1st petitioner had created a Power of attorney in his favour by impersonating the said K.S.Lakshmi and sold the properties to his wife and thereafter his wife sold the properties to third parties and this has to be investigated by the 1st respondent police.

5. The learned Additional Public Prosecutor submitted that since there was a stay granted by this Court, 1st respondent police could not investigate the case, and they may be permitted to investigate to ascertain the truth.



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6. This Court, on perusal of the impugned FIR and on hearing the learned counsels on either side, finds that the impugned FIR has to be investigated by the respondent police after considering the documents and versions of both the petitioners and the 2nd respondent. Therefore, this Court is not inclined to quash the impugned FIR. The 1st respondent police is directed to conduct the investigation and complete it within a period of 12 weeks from the date of receipt of a copy of this Order.

7. With these observations, the Criminal Original Petition stands dismissed. Consequently, the connected Miscellaneous Petition is closed.

25.04.2023

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

1. The Inspector of Police,
Central Crime Branch
ALGSC-I, Team -16
Vepery, Chennai -600007.



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SUNDER MOHAN. J,

shr

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