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Crl.O.P.No.10940 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.11.2023

CORAM:

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

Crl.O.P.No.10940 of 2019 and
Crl.M.P.No.5604 of 2019

G.Jashwant Raj

... Petitioner

Vs.

1.The Inspector of Police,
G-1, Police Station,
Vepery, Chennai.
(Cr.No.647 of 2018)

2. R.Dinakaran

... Respondents

PRAYER: Criminal Original petition is filed under Section 482 of Criminal Procedure Code, to call for the records in Crime No.647 of 2018 on the file of the 1st respondent and quash the same.

For Petitioner : Mr.M.R.Jothimanian

For Respondent 1 : Mr.L.Baskaran,
Government Advocate (Crl.Side)

For Respondent 2 : Mr.K.Balasubramanian

ORDER

This criminal original petition has been filed to quash the FIR in Crime No.647 of 2018 on the file of the first respondent registered for the offences



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U/s.420,465,468,471 and 506(i) of IPC.

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The crux of the case is that the property was purchased jointly by the Late.Rajamanickam and Umayaparvathy in the year 1980 measuring to an extent of 2 grounds and 1981 Sq.ft.,. Accused No.1 and R.Gunasekaran are the legal heirs of the Late.Rajamanickam. In the year 1984, marriage was solemnized between the Accused No.1 and 2. On 08.03.1986, the said Rajamanickam died. After his demise, accused No.1 and her brother Gunasekaran started business. They all lived as joint family. On 04.09.1988, marriage between R.Gunasekaran and Mrs.Bhuvaneswari took place. But after some years, it was ended in divorce. Later, the said Gunasekaran was died without issues. In the meanwhile, Accused 1 entered into the property and executed a released deed on 14.06.2006 in favour of her mother Mrs.Umayaparvathy by way of document registered in Document No.2566/2006. On 23.06.2006, the said Umayaparvaty had executed a settlement deed in favour of Accused No.1 who is her own daughter in respect of 'B' schedule property to an extent of 2320 Sq.ft.,. Sofar as the 'A' schedule property is concerned, it was mortgaged in Vijaya Bank on 24.01.2007 by way of Document No.290/2007 for Rs.13,00,000/-. The Accused No.1 received the said money and out of this, he constructed a three storied building. On



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05.11.2008, another settlement deed was executed by Umayaparvathy in respect of 'A' schedule property by way of Document No.4054/2008 in favour of Accused No.1 by suppressing the fact that there was mortgage with respect to the concerned property and Accused No.1 and 2 conspired together and created a false document stating that mortgage loan was paid in order to deceive Accused No.1. On 25.02.2012, the mother of the Accused No.1 and the Accused No.1 absconded and their whereabouts were not known. Hence a complaint was lodged and registered FIR in Crime No.207 of 2012 as "Woman Missing". In the meanwhile, Accused No.2 was withdrew the fixed deposit amount which stood in the name of Late.Gunasekaran. Further, Accused No.1, 2 and 3 conspired together and suppressing the fact about missing of Umayaparvathy and creating false document by suppressing the mortgage of the property in Vijaya Bank and settled the property in favour of Accused No.2 by way of Document No.3437/2016 dated 01.06.2017. Later, the defacto complainant came to know about the WILL executed by his father in the year 07.03.1985. Accused No.1,2 and 3 had deceived the defacto-complainant. Accused No.1 to 3 came to the house of the defacto-complainant and scolded him in filthy languages and threatened him to vacate the house. Hence the complaint.



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3. Therefore, without any title or right over the property, that too unilaterally the 2nd respondent canceled the release deed executed by him, that too without the knowledge of the 1st accused namely his own sister. Infact, he obtained loan by depositing the title deeds with Vijaya Bank. Therefore, no offence is made out as against this petitioner. That apart, the petitioners mother and father have already filed a suit in respect of the very same property in O.S.No.2509 of 2018 on the file of the VII Assistant Judge, City Civil Court, Chennai and also obtained injunction order in I.A.No.6586 of 2018. Therefore none of the ingredients for the offence punishable under sections.420,465,468,471 and 506(i) of IPC have been found to exist.

4. Therefore, the impugned First Information Report in Crime No.647 of 2018 on the file of the first respondent is hereby quashed and this Criminal Original Petition is allowed. Consequently, connected miscellaneous petition is closed.

07.11.2023

Index : Yes/No

Internet : Yes/No

Speaking order/non-speaking order

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To

- 1.The Inspector of Police,
G-1, Police Station,
Vepery, Chennai.
- 2.The Public Prosecutor,
High Court of Madras



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G.K.ILANTHIRAIYAN, J.

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