



Crl.O.P.No.16353 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.11.2023

CORAM:

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

Crl.O.P.No.16353 of 2022 and
Crl.M.P.No.9447 of 2022

- 1) Chinnaiya Gounder
- 2) Murugathal
- 3) Sagunthala
- 4) Raju @ Arumugam
- 5) Srimathi

... Petitioners

Vs

- 1) The Inspector of Police,
Central Crime Branch,
Coimbatore City,
Coimbatore.
(Crime No.27 of 2021)

- 2) Rajaram

... Respondents

PRAYER: Criminal Original Petitions filed under Section 482 Cr.P.C. to call for the entire records pertaining to the Crime No.27 of 2021 on the file of the Inspector of Police, Central Crime Branch, Coimbatore City, Coimbatore and quash the same.



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For Petitioners : Mr.N.R.Elango,
Senior counsel
for Mr.G.R.Deepak Sagilesh Kumar

For Respondent 1 : Mr.A.Gopinath,
Government Advocate (Crl.Side)

For Respondent 2 : Mr.V.Purushothaman Reddy

ORDER

This Criminal Original petition has been filed to quash the proceedings in Crime No.27 of 2021 on the file of the Inspector of Police, Central Crime Branch, Coimbatore City, Coimbatore, registered for the offences under sections 120(b), 465,468,471 & 420 of IPC.

2. The case of the complainant is that the 2nd respondent purchased a property to the extent of 43 cents in S.F.No.82/1, Ganapathy Village, Coimbatore from one, Kaleeswaran and Kumarasamy. From the date of purchase, he was in peaceful possession and enjoyment of the property. Out of 19.01 acres in S.F.Nos.81,82,83 & 84 of Ganapathy Village, Coimbatore, on the eastern side to an extent of 6.76 acres belonged to Arumuga Gounder. The legal heirs of Arumuga Gounder namely Chinnaya Gounder and Natchimuthu Gounder were partitioned the property vide document No.1438/1966 to an extent of each 3.38



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acres. In so far as the property belonged to Chinnaiya Gounder, he appointed his wife Murugathal/2nd petitioner as a guardian of his two minor children and executed a release deed in Document No.1459 of 1970. So far as Natchimuthu Gounder is concerned he sold his share to four persons in the year 1980. By suppressing the sale of 2 acres 90 cents out of 3.38 acres in S.F.Nos.81,82,83 & 84, the said Natchimuthu Gounder executed a settlement deed in favour of Chinnaiya Gounder including the lands purchased by the 2nd respondent under document No.4365 of 2005 dated 22.07.2005. Thereafter, the said Chinnaiya Gounder had executed a settlement deed in favour of his son Raju @ Arumugam vide document No.4410 of 2005. On 07.08.2005, there was another settlement deed in favour of Raju @ Arumugam by Chinnaiya Gounder. On 10.07.2006, the said Raju @ Arumugam executed a settlement deed in favour of his wife Sagunthala to an extent of 5.50 acres in S.F.Nos.81 & 82 of Ganapathy Village, Coimbatore vide document No.4050 of 2006. Thereafter, all the petitioners joined together and plotted out the above said property including the 2nd respondent's land and sold to various persons.



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3. The 1st petitioner's father was having a vast land in Ganapathy Village, Coimbatore. On 22.07.2005, the elder brother of the 1st petitioner namely Natchimuthu Gounder executed a settlement deed to an extent of 15.90 3/4 acres vide document No.4365 of 2005 in favour of the 1st petitioner. In that document, the son of the Natchimuthu Gounder namely Sivagurunathan signed as witness. Thereafter, the 1st petitioner appointed his wife i.e., the 2nd petitioner as guardian of 3rd petitioner and his brother Chandrasekaran and thereby executed a release deed. On 23.11.1982, the brother of the 3rd petitioner Chandrasekaran died leaving behind his mother as his legal heir. On 27.07.2005, the 1st petitioner executed a settlement deed in favour of the 3rd petitioner vide Document No.4410 of 2005. On 04.08.2005, the 1st petitioner executed another settlement deed in favour of the 3rd petitioner in respect of another 1/2 share of the property under Document No.4563 of 2005. On 10.07.2006, the 3rd petitioner executed a settlement deed in favour of the 4th petitioner vide document No.4550 of 2006. The 4th petitioner is entitled to a share to an extent of 2.29 acres in S.F.No.82 of Ganapathy



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Village, Coimbatore. The petitioners 1 to 4 are the owners of the land and 5th petitioner being one of the grand children of the 1st petitioner is entitled to have a share in the ancestral property. The petitioners 1 to 4 in order to develop the said land, plotted out the same by approval of the concerned department and sold to 3rd parties from the year 2009 onwards. The 2nd respondent has purchased the land from the non-title owner of the land. Hence, the complaint.

4. The learned senior counsel appearing for petitioners submitted that the entire disputes are civil in nature and even according to the 2nd respondent, the subject property was purchased on 11.04.1997 vide document No.763/1998. However, the 2nd respondent lodged complaint in the year 2021. He also relied upon the judgement of Hon'ble Supreme Court of India in the case of *Mohammed Ibrahim and others vs State of Bihar and another reported in 2009 (8) SCC 751*.



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5. The learned counsel for the 2nd respondent submitted that the subject property was already sold out and the same was purchased by way of settlement deed executed vide document No.4050 of 2006 and the same also annulled. Therefore, there are specific allegation as against the petitioners and the entire proceeding cannot be quashed on its threshold.

6. On perusal of the records also revealed that there are specific allegations made as against the accused persons.

7. It is relevant to rely upon the judgment of the Hon'ble Supreme Court of India passed in ***Crl.A.No.255 of 2019*** dated ***12.02.2019*** in the case of ***Sau. Kamal Shivaji Pokarnekar vs. the State of Maharashtra & ors.***, as follows:-

"4. The only point that arises for our consideration in this case is whether the High Court was right in setting aside the order by which process was issued. It is settled law that the Magistrate, at the stage of taking cognizance and summoning, is required to apply his judicial mind only with a view



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to taking cognizance of the offence, or in other words, to find out whether a prima facie case has been made out for summoning the accused persons. The learned Magistrate is not required to evaluate the merits of the material or evidence in support of the complaint, because the Magistrate must not undertake the exercise to find out whether the materials would lead to a conviction or not.

5. Quashing the criminal proceedings is called for only in a case where the complaint does not disclose any offence, or is frivolous, vexatious, or oppressive. If the allegations set out in the complaint do not constitute the offence of which cognizance has been taken by the Magistrate, it is open to the High Court to quash the same. It is not necessary that a meticulous analysis of the case should be done before the Trial to find out whether the case would end in conviction or acquittal. If it appears on a reading of the complaint and consideration of the allegations therein, in the light of the statement made on oath that the ingredients of the offence are disclosed, there would be no justification for the High Court to interfere.



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9. Having heard the learned Senior Counsel and examined the material on record, we are of the considered view that the High Court ought not to have set aside the order passed by the Trial Court issuing summons to the Respondents. A perusal of the complaint discloses that prima facie, offences that are alleged against the Respondents. The correctness or otherwise of the said allegations has to be decided only in the Trial. At the initial stage of issuance of process it is not open to the Courts to stifle the proceedings by entering into the merits of the contentions made on behalf of the accused. Criminal complaints cannot be quashed only on the ground that the allegations made therein appear to be of a civil nature. If the ingredients of the offence alleged against the accused are prima facie made out in the complaint, the criminal proceeding shall not be interdicted."



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8. In view of the above discussion, this Court is not inclined to quash the First Information Report. Accordingly, this Criminal Original Petition stands dismissed. However, the first respondent is directed to complete the investigation in Crime No.27 of 2021 and file a final report within a period of twelve weeks from the date of receipt of copy of this Order, before the jurisdiction Magistrate, if not already filed.

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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,
Central Crime Branch,
Coimbatore City,
Coimbatore.
- 2) The Public Prosecutor,
High Court Madras.

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