



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.01.2023

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THE HONOURABLE Ms. JUSTICE R.N.MANJULA

Crl.O.P No.16963 of 2021
and Crl.M.P. No.9273 of 2021

1. P.Sheela
2. S.Prem Kumar

... Petitioners

Vs.

1. The Assistant Commissioner of Police,
Central Crime Branch,
Greater Chennai Police, Vepery,
Chennai – 600 007.

2. The Inspector of Police,
Central Crime Branch – II, Team-23,
Anti Land Grabbing Special Cell-II,
Vepery, Chennai – 600 007.

3. S.Bhaskar
4. K.Manickam

... Respondents

Criminal Original Petition is filed under Section 482 of Criminal Procedure Code, to call records culminating in the FIR in Crime No.47 of 2021 registered by the first respondent police and now pending investigation on the file of the second respondent police and quash the same as against the petitioners.



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For Petitioners : Mr.Arun Anbumani

For Respondent-1&2 : Mr. A.Gopinath
Government Advocate (Crl. Side)

R3&4 : Mr. S.Vijayanand

ORDER

This petition has been filed to call for the records culminating in the FIR in Crime No.47 of 2021 registered by the first respondent police and now pending investigation on the file of the second respondent police and quash the same as against the petitioners.

2. The petitioners are the fifth and sixth accused. On the joint petition filed under Section 156(3) Cr.P.C. before the Judicial Magistrate I, Poonamalle by the respondents 3 and 4, a direction has been given to register the FIR. The respondents 3 and 4 have alleged that the property measuring an extent of 1.04 acres comprised in Survey No.365/3 at Ayyappakkam Village, Ambattur Taluk is the property belonging to them and was dealt by various third parties by creating false documents fraudulently. The respondents 3 and 4 claim themselves as power agent for the said property executed by the original owner Lakshmi.



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3. The learned counsel for the petitioners submitted that the property was purchased by the original owner Lakshmi in the year 1995 and she had given the power of attorney in favour of the respondents 3 and 4 and one another in the year 1997; the said Lakshmi died in the year 2002 and thereafter the power of attorney will not have any value; after the death of Lakshmi, one Kowsalya(A1) claimed herself as power agent of the deceased Lakshmi and sold the property in favour of fourth accused and the fourth accused sold the property to the fifth accused in the year 2011 and fifth accused executed a sale deed in favour of sixth accused who is her husband; in the year 2015, one Selvi Vignesh who is the daughter-in-law of the deceased Lakshmi had sent an e-mail to the fifth and sixth accused by attaching the complaint given by her son with regard to the fraudulent transactions done by dealing the subject property belonging to Lakshmi; after coming to know from the above communication, the petitioners realised that they have been cheated by someone and in order to avoid further complications they had cancelled the sale deeds that was executed in favour of the sixth accused; subsequently in the year 2019, the original legal heirs of Lakshmi have dealt the property



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and in fact sold the same in favour of some builders; when the facts are so, the respondents 3 and 4 have given a complaint stating that they are the owners of the subject property; since the respondents 3 and 4 do not have any title in respect of the subject property, it is wrong on their part to claim that they are the owners of the property and give complaint against all the persons including the legal heirs of Lakshmi; so far as these petitioners are concerned they have cancelled the sale deed and came out of the picture once and for all in the year 2015 itself; since the complaint has been given without any basis by including the petitioners, the FIR is liable to be quashed.

4. The learned Government Advocate (Crl.side) submitted that only if investigation is allowed to go on, the real facts behind the transactions can be found and it is too early to decide that the petitioners did not have the criminal intention.

5. The learned counsel for the respondents 3 and 4 submitted that they have the power of attorney in their favour from deceased Lakshmi after paying the consideration of Rs.4,00,000/- and the power



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of attorney is coupled with interest; since many transactions have been done subsequently without their knowledge they have given the complaint and hence the investigation should be allowed to go.

6. Even according to the complainants, the original owner of the property is Lakshmi who had purchased it in the year 1995. Even though the respondents 3 and 4 claim themselves as the owners of the property, the records would only show that they are the only power agents appointed by the deceased Lakshmi in the year 1997. Admittedly the original owner Lakshmi died in the year 2002. On the death of Lakshmi the power given by her would come to an end and thereafter the power agent cannot deal with the property of Lakshmi. Even though the respondents 3 and 4 claim that they have paid consideration for executing power in their favour and the power of attorney is coupled with interest, the power of attorney cannot transfer any title in their favour. In the absence of any title deed executed by the deceased Lakshmi in favour of respondents 3 and 4 they cannot assume any title over the property and their title over the property cannot be in any way better than the title of the legal heirs of the



deceased Lakshmi.

7. No doubt in the year 2009, the first accused is said to have impersonated the deceased Lakshmi and concocted power of attorney in her favour and subsequently executed a sale deed in favour of fourth accused. The fourth accused had executed power of attorney in the year 2011 in favour of the fifth accused. The fifth accused had executed the sale deed in favour of her husband, the sixth accused in her capacity as power agent for Sathyakumar. The sixth accused is the subsequent purchaser from Sathyakumar who had already purchased the property through the first accused. In fact the legal heirs of the deceased Lakshmi themselves have taken action against the first accused for having created a power of attorney in her favour after the death of Lakshmi. So far as these petitioners are concerned they have cancelled the sale deed immediately after receiving the informations and details about the nature of property purchased by them. In view of the same, the FIR registered in pursuant to the complaint given by the grandson of the deceased Lakshmi in Cr.No.167 of 2014 was also quashed as against these petitioners by virtue of an order of this Court



dated 13.09.2019 in Crl.O.P No.22408 of 2019.

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8. Since the petitioners have absolved from their criminal liability by virtue of the above said order, it is unnecessary to array them as accused once again for the very same allegation but by difference complaints. After the sale deeds obtained in favour of the sixth accused was cancelled, the petitioners did not claim any right over the subject property also. The right legal heirs of the deceased Lakshmi have dealt the property and had sold it to some builders. If the respondents 3 and 4 have got any grievance in view of the alleged consideration paid by them to the deceased Lakshmi before getting the power of attorney in their favour, the rightful remedy open to them is to take civil action.

9. Since the records do not show any criminal intention on the part of the petitioners, allowing the investigation to be done once again against the petitioners is unnecessary and a wasteful exercise. Hence I feel it is appropriate to exercise the powers of this Court under Section 482 Cr.P.C. to quash the proceedings in order to secure the ends of



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justice.

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10. Accordingly, this Criminal Original Petition is allowed and the FIR in Crime No.47/2021 on the file of the respondent police is quashed as against the petitioners. Connected miscellaneous petition is closed.

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Index : Yes/No
Speaking Order : Yes / No
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Central Crime Branch,
Greater Chennai Police, Vepery,
Chennai – 600 007.
2. The Inspector of Police,
Central Crime Branch – II, Team-23,
Anti Land Grabbing Special Cell-II,
Vepery, Chennai – 600 007.
3. The Public Prosecutor,
High Court, Madras.



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R.N.MANJULA, J.,

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