



Crl.R.C. No.1129 of 2023

WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.07.2023

CORAM

THE HONOURABLE MRS. JUSTICE **R.HEMALATHA**

Crl.R.C.No.1129 of 2023

1. Reji Jose

2. Renny Jose

...Petitioners

Vs.

1. State Rep. by

The Inspector of Police

J-3 Police Station, Guindy, Chennai.

2. M.Pravin Somaiya

3. Mayuri P. Somaiya

4. Mihir Somaiya

5. Manan Somaiya

6. Mukesh S. Metha

7. M. Vinoth

...

Respondents

R2 to R7 are impleaded as per order dated

30.06.2023 in Crl.M.P.No.9211/23 in

Crl.RC.No.1129/23.

Prayer : Criminal Revision Petition filed under Section 397 & 401 Cr.P.C. against the order dated 29.05.2023, in Crl.M.P. No.8276 of 2023 on the file of the learned IX Metropolitan Magistrate Court (FAC),



Crl.R.C. No.1129 of 2023

WEB COPY Saidapet, Chennai.

For Petitioner : Mr.T. Mohan, Senior Counsel
Assisted by Mr. G. Mutharasu
For R1 : Mr.J. Subbiah, GA (Crl. Side)
For R2 & R3 : Mr. R. Prem Kumar

ORDER

Challenging the orders dated 29.05.2023 passed by the IX Metropolitan Magistrate, Fast Track Court, Saidapet, Chennai. in Crl.M.P. No.8276 of 202, the present Criminal Revision Petition is filed.

2. The petitioners are the complainants in Crl. M.P. No.8276 of 2023 and they filed the private complaint under Section 200 Cr.P.C. for a direction to the respondent police namely, the Inspector of Police, J-3 Guindy Police Station, Chennai, to register FIR against M.Pravin Somaiya and his wife Mayuri P. Somaiya, for an offence punishable under Section 420 IPC and to investigate the case under Section 156(3) Cr.P.C. The learned IX Metropolitan Magistrate, Saidapet, dismissed the



Crl.R.C. No.1129 of 2023

WEB COPY said petition on the ground that the averments made in the complaint are purely civil in nature and therefore, the complaint cannot be forwarded to the police for investigation under Section 156(3) Cr.P.C. The learned Magistrate further directed the petitioner to file a civil suit for specific performance of contract, if he is so advised.

3. The case of the complainants in nutshell is as follows:

- i. The present petitioners/complainants are partners in M/s. Core Plasto Enterprises and they are having office at No.A 22, Phase III, SIDCO Thiru-Vi-Ka Industrial Estate, Guindy, and they wanted to purchase a land for their office use and approached Mr.M.Pravin Somaiya and his wife Mrs.Mayuri P. Somaiya, for purchasing their plots at No.35 & 36 in S.No.205/5, 205/1B and 205/1 measuring 10,900 square feet each, totalling 21,800 sq.ft. out of total area of land of 2.84 acres situate at Green Arena at 135, Ulunthai Village, Thirvallur taluk and District.
- ii. On 22.08.2022, Mrs. Mayuri P. Somaiya sent an E-mail communication to the present petitioners stating that they are



Crl.R.C. No.1129 of 2023

WEB COPY

appointing one Mr.Mukesh S. Metha on their behalf to collect the advance amount of Rs.1 lakh each for Plot Nos. 35 and 36 and thereafter they would complete other formalities by September 2022 on their arrival from USA.

- iii. Thereafter the petitioners contacted Mr. Mukesh S. Metha and paid him a sum of Rs.2 lakhs.
- iv. M.Pravin Somaiya and his wife Mayuri P. Somaiya came down to India during December 2022. When the petitioners/complainants approached both of them for executing a sale deed in their favour, they informed that they are flying back to the USA and insisted the complainants to approach Mr. Mukesh S. Metha and mention his name in the sale deed as vendor.
- v. Accordingly Mr. Mukesh S. Metha executed a sale agreement dated 02.12.2022 in favour of the present petitioners in which M.Pravin Somaiya and his wife Mayuri P. Somaiya signed as witnesses. However, they did not execute any sale deed in favour of the petitioners/complainants even though they were ready to pay the balance sale consideration as per the sale agreement dated



Crl.R.C. No.1129 of 2023

WEB COPY 02.12.2022.

vi. Therefore, the present petitioners/complainants lodged a complaint before the Inspector of Police, J-3 Guindy Police Station, based on which CSR was registered by the said police. Since no action was taken by the police, the petitioners filed a private complaint under Section 200 Cr.P.C. before the IX Metropolitan Magistrate Court (FAC), Saidapet, Chennai, seeking a direction to the respondent police to register FIR and investigate the matter under Section 156(3) Cr.P.C., The said petition was dismissed by the learned IX Metropolitan Magistrate, Fast Track Court, Saidapet, Chennai, vide his orders dated 29.05.2023, as stated supra.

4. Aggrieved over the orders passed by the learned IX Metropolitan Magistrate, the present Criminal petition is filed.

5. Heard Mr.T. Mohan, learned Senior Counsel, assisted by Mr. G. Mutharasu, learned counsel for the petitioner and Mr.J. Subbiah,



Crl.R.C. No.1129 of 2023

WEB COPY

learned Government Advocate (Crl. Side) for the 1st respondent and Mr.R. Prem Kumar, learned counsel for the respondents 2 and 3.

6. A perusal of the copy of the sale agreement dated 02.12.2022 shows in the body of the agreement that M.Pravin Somaiya and his wife Mayuri P.Somaiya were referred to as vendors and Mr. Mukesh S. Metha was referred to as their Power Agent. However, strangely Mukesh S. Metha had signed as a vendor in the last page of the agreement of sale and the owners M.Pravin Somaiya and his wife Mayuri P. Somaiya had signed as witnesses. In any event, this Court cannot go into the genuineness of the sale agreement in the instant petition. As rightly observed by the trial court judge, the present petitioners/complainants can only approach the civil court by way of filing a suit for specific performance of contract. Merely because M.Pravin Somaiya and his wife Mayuri P. Somaiya had executed two settlement deeds in favour of their children subsequent to the execution of the sale agreement in favour of the present petitioners, it cannot be said that they have committed the offence of cheating. The present



Crl.R.C. No.1129 of 2023

WEB COPY

petitioners/complainants are attempting to give a criminal colour to a civil dispute between them and the respondents 2 to 7. The order passed by the learned IX Metropolitan Magistrate, Saidapet, is perfectly in order and I do not see any reason to interfere with the same.

7. In the result,

- i. the Criminal Revision Petition is dismissed. No costs.
- ii. the orders dated 29.05.2023, in Crl.M.P. No.8276 of 2023 on the file of IX Metropolitan Magistrate Court (FAC), Saidapet, Chennai, is confirmed.

27.07.2023

Index: Yes/No
Internet: Yes/No
Speaking/Non-Speaking order
bga



WEB COPY



Crl.R.C. No.1129 of 2023

R. HEMALATHA, J.
bga

To

The IX Metropolitan Magistrate, Fast Track Court,
Saidapet, Chennai,

Crl.R.C.No.1129 of 2023

27.07.2023