



CrI.O.P.No.17528 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 09.06.2023

CORAM

THE HONOURABLE MR. JUSTICE SUNDER MOHAN

CrI.O.P.No.17528 of 2021

and

CrI.M.P.Nos.9620 and 9622 of 2021

1.Gajalakshmi Ammal

2.A.Pazhanai

3.Elumalai

4.E.Senthil Kumar

5.E.Sridhar

... Petitioners/Accused 1,2,5,6,7

Vs.

1. State rep. by

Inspector of Police,

Central Crime Branch, Team XV,

Chennai – 8,

Cr.No.647/2006

A.G.S.Irudhayaraj (deceased)

2. I.Isabella



Crl.O.P.No.17528 of 2021

3. I.Edmund Sagayaraj

4. I.Asha Sagayarani

5. I.Hema Sagayarani

... Respondents

[R2 to R5 Impleaded as per
order in Crl.O.P.No.17528
of 2021 dated 10.03.2022]

PRAYER : Criminal Original Petition has been filed under Section 482 of the Criminal Procedure Code, to call for the records pertaining to C.C.No.27 of 2013 pending trial before the learned Metropolitan Magistrate Court for CBCID and CCB Cases, Egmore, Chennai and to quash the same.

For Petitioners

1 and 2 : No Appearance

For Petitioners

3, 4 and 5 : Mr.R.Thiagarajan

For R1 : Mr.S.Balaji

Government Advocate (Crl.Side)

For R2 to R5 : M/s. P.Rajnish Pathiyil

ORDER

The petition is to quash the final report for the alleged offences under Sections 467, 468, 471 r/w 109 IPC, 420 and 120 (B) IPC.



Crl.O.P.No.17528 of 2021

2. The learned counsel for the petitioners would submit that the prosecution is misconceived inasmuch as a civil dispute is sought to be projected and given a criminal colour; that it is the case of the petitioners that they are entitled to the property and they are the bonafide purchasers for valid consideration; that the petitioners 3, 4 and 5 had filed a suit in O.S.No.12065 of 2010 before the VI Additional City Civil Court at Chennai to declare the Sale Deed dated 05.11.1975 registered as Document No.90 of 1976 as invalid and *non est*. The said suit was decreed on 15.03.2019. The defacto complainant and the legal representatives of A.G.L.Irudhayaraj (deceased) had filed an appeal and *status quo* has been ordered by the Appellate Court. In such circumstances, the learned counsel for the petitioners submitted that the impugned proceedings is an abuse of process of law and prayed for quashing of the proceedings.

3. The learned Government Advocate (Crl.Side), submitted that the instant petition is not maintainable since the petitioners had filed the quash petition earlier and the same was dismissed by this Court. The first and the second petitioners along with one K.Santhanam filed a quash petition in Crl.O.P.No.23868 of 2006 challenging the



Crl.O.P.No.17528 of 2021

proceedings and this Court had dismissed the said petition by observing as follows :

...

" 9... In the facts and circumstances above stated, it would but be proper that the trial in the case be allowed to proceed.

10. Accordingly, the Criminal Original Petition shall stand dismissed. Consequently, the connected M.P., is closed."

4. Further the quash petition filed by the petitioners 3, 4 and 5 in Crl.O.P.No.21504 of 2007, was dismissed by this Court by the order dated 04.12.2012.

5. This Court finds that since the earlier quash petitions filed by the petitioners were and decided by this Court on merits and this Court had held that the case has to be adjudicated only before the trial Court, this Court cannot entertain a second quash petition. The petitioners have not disclosed the fact of dismissal of the quash petition in their petition. In such circumstances, this Court is not inclined to entertain this quash petition. However, the petitioners are at liberty to raise all the



Crl.O.P.No.17528 of 2021

contentions before the trial Court. The trial Court shall consider the same on its merit without being influenced by any observations made in any of the orders passed by this Court in the quash petitions.

6. With the above observations, the Criminal Original Petition is dismissed. Consequently, the connected miscellaneous petitions are closed.

09.06.2023

dk

Index : Yes/No

Speaking/Non Speaking Order

NCC: Yes/No



WEB COPY



Crl.O.P.No.17528 of 2021

SUNDER MOHAN. J,
dk

To

1.The Metropolitan Magistrate Court for CBCID
and CCB Cases,
Egmore,
Chennai.

2.The Public Prosecutor
High Court of Madras
Chennai – 600 104.

Crl.O.P.No.17528 of 2021

and

Crl.M.P.Nos.9620 and 9622 of 2021

09.06.2023