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Crl.O.P.No.19964 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.06.2023

CORAM

THE HONOURABLE MR. JUSTICE SUNDER MOHAN

Crl.O.P. No.19964 of 2019

&

Crl. M.P.No.10241 of 2019

1.G.Ramakrishnan

2.G.Sudhakar

... Petitioners

Vs.

K.Banumathy

... Respondent

PRAYER: Criminal Original Petition filed under Section 482 of the Criminal Procedure Code, to call for the records in connection with the private complaint in C.C.No.158 of 2017, pending on the file of the Judicial Magistrate No.1, Chidambaram and quash the same.

For Petitioners : Mr. E.Sathiya Raj

For Respondent : Mr. P.Pugalenthi

ORDER



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The petition is to quash the private complaint in C.C.No.158 of 2017 for the alleged offences under Section 120 (b), 420, 465, 467 & 468 of IPC.

2. The petitioners are arrayed as A1 and A6 in the said complaint.

The complainant is the mother-in-law of A2.

3. It is alleged in the complaint that the son of the complainant one Rajendran died on 16.08.2012. It is alleged that the 2nd accused (Wife of the said Rajendran) had forged his signature and created a Will making it appear that he had bequeathed his properties in her favour; that A3, A4 and A5 had signed as witnesses knowing fully well that the said document was forged; that A1 and A6 are purchasers of the property from A2.

4. The learned counsel for the petitioners submitted that even according to the complaint, the Will was alleged to be forged by A2. There is no allegation that the petitioners had forged the said Will,



except for stating vaguely that A2 had forged the Will with the assistance of the 1st petitioner / A1.

5. The learned counsel would submit that the petitioners are the bonafide purchasers and in fact have filed a civil suit in O.S.No.256 of 2015, on the file of the District Munsif, Chidambaram, which is pending adjudication. The said suit was filed seeking permanent injunction restraining defendants, namely, the complainants and her 2nd son, Ravichandran.

6. The learned counsel further submitted that the son of the defacto complainant one Ravichandran had also filed a suit in O.S.No.18 of 2016 on the file of the District Munsif, Chidambaram praying for declaration that the Will dated 06.08.2012 and the sale deed dated 27.07.2015 in favour of the petitioners as null and void. While so, since the issue has to be adjudicated only by the Civil Court, the petitioners have been sought to be implicated in the complaint only to arm-twist them. The learned counsel further submitted that the Police



rightly refused to take action on the complaint given by the respondent.

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7. Per contra, the learned counsel for the respondent submitted that though civil suits are pending between the parties, there are allegations pending against the petitioners and it was at their instances that A2 had prepared the forged Will. Since there are allegations, the matter has to be adjudicated only before the Trial Court.

8. This Court on perusal of the impugned complaint finds that the dispute is between the mother-in-law and the daughter-in-law. The complainant's son Rajendran died on 16.08.2012. The said Rajendran said to have executed a Will in favour of his wife i.e., A2. Even accepting the allegations in the complaint to be true, there are no allegations that the petitioners had any role in the alleged forgery of the Will. They are the subsequent purchasers for a valid consideration. The petitioners have filed O.S.No.256 of 2015 for injunction against the complaint and her son. Likewise the complainant's son has filed the suit for declaration that the Will dated 06.08.2012 and sale deed



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dated 27.07.2015 said to have been executed by Rajendran as null and void.

9. These are the issues which has to be adjudicated only before the Civil Court. The petitioners being bonafide purchasers cannot be prosecuted in the absence of necessary ingredients. Hence, the impugned complaint as against the petitioners herein is liable to be quashed.

10. In the result, the petition is allowed. Consequently, the connected Miscellaneous Petition is closed. No costs.

06.06.2023

Index : Yes/No
Internet : Yes/No
Neutral Citation :Yes/No

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To

The Judicial Magistrate No.1,
Chidambaram.



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SUNDER MOHAN. J,

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