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CrI.OP.No.20177 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.11.2023

CORAM:

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

CrI.OP.No.20177 of 2021

and

CrI.MP.Nos.10989 & 10990 of 2021

1.S.Senthil Kumar
2.R.Easwaran
3.V.Krishnamoorthy

... Petitioners

Vs.

1.State represented by
The Inspector of Police,
Kattoor Police Station,
Coimbatore City
(in crime No.1149 of 2020)
2.J.Dhanalakshmi

... Respondents

PRAYER: Criminal original petition is filed under Section 482 of Cr.P.C. to call for the records pertaining to the proceedings in CC.No.1980 of 2020 on the file of the Judicial Magistrate Court-II, Coimbatore and to quash the same.

For Petitioners : M/s.T.Madhumitha

For Respondents

For R1 : Mr.A.Gopinath,
Government Advocate(crl.side)

For R2 : No appearance



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ORDER

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This Criminal Original Petition has been filed to quash the proceedings in CC.No.1980 of 2020 on the file of the Judicial Magistrate Court-II, Coimbatore thereby taken cognizance for the offences under Sections 406, 420 & 120B of IPC as against the petitioners.

2. The second respondent lodged complaint alleging that she entered into an agreement for sale with the accused for purchase of plot No.31 in Ishwaryam Garden admeasuring 2493 sq.ft. comprised in survey No.152/1B and 152/1C of Kanuvakarai Village, Annur Panchayat Union, Coimbatore District. The total sale consideration was fixed at Rs.2,49,300/- At the time of agreement, the second respondent paid a sum of Rs.10,000/- towards advance and the balance amount of Rs.2,39,300/- was agreed to be paid by the second respondent in 36 equal monthly instalments at Rs.6,647 per month. The defacto complainant paid entire instalments as agreed by her. However, the petitioners did not register any sale deed in respect of the plot No.31 in favour of the defacto complainant. When it was questioned by her, the accused persons represented that plot No.31 was not yet approved and as such, they insisted to purchase one of the other plots by paying the remaining sale



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consideration of Rs.3,00,000/-. Believing the said words, again the second respondent paid a sum of Rs.3,00,000/-. In total, she paid a sum of Rs.4,35,000/-. However, the accused failed to register any sale deed. Hence the complaint. On receipt of the said complaint, the first respondent registered FIR in crime No.1149 of 2020 for the offence under Sections 406, 420, 120B of IPC. After completion of investigation, the first respondent filed final report and the same has been taken cognizance.

3. The learned counsel for the petitioners would submit that as per the agreement dated 22.11.2013, the period of two years completed in the month of November 2016. Whereas the last payment was made by the second respondent only on 30.11.2018. However, plot No.31 was not yet approved and as such the petitioners by the legal notice dated 30.01.2020, called upon the second respondent to opt any one of the house plots in the house plots No.12, 13, 14, 19, 20 & 21 and to pay the remaining sale consideration if any and immediately they are ready to execute sale deed in favour of the second respondent. However, the said notice was returned unclaimed. Once again, the petitioners had sent another legal notice dated 23.03.2020 and the same was also returned as unclaimed. While being so, the second respondent lodged



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complaint. The petitioners approached the District Court for anticipatory bail and they were granted anticipatory bail in Crl.OP.Nos.2200, 2201 and 2202 of 2020 by order dated 27.08.2020 on condition that the petitioners shall deposit a sum of Rs.4,35,000/- to the credit of crime No.1149 of 2020 on the file of the Judicial Magistrate-II, Coimbatore. Accordingly, the petitioners had deposited the entire sum of Rs.4,35,000/- and it is lying in the court credit in CC.No.1980 of 2020 on the file of the Judicial Magistrate-II, Coimbatore. Now, the petitioners have no objection to receive the entire amount by the second respondent. Though they had deposited the sum of Rs.4,35,000/- allegedly received by them, according to the petitioners, they received only a sum of Rs.2,39,300/- as per the agreement.

4. On perusal of records, revealed that the petitioners are arrayed as A1 to A3. They are promoters and doing real estate business. They developed the land and had given advertisement for sale of the lands situated at Ishwaryam Garden. After seeing the advertisement, the second respondent approached the petitioners to purchase plot No.31 admeasuring 2493 sq.ft. comprised in survey No.152/1B and 152/1C of Kanuvakkarai Village, Annur, Coimbatore District for total sale consideration of Rs.2,49,300/-. She also



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entered into an agreement on 22.11.2013 and accordingly, the second respondent ought to have paid the entire sale consideration in 36 instalments.

36 months period expired in the month of November 2016. But the second respondent did not pay the entire sale consideration as agreed by her. However, she paid her last and final instalment on 30.11.2018. Therefore, admittedly the petitioners received a sum of Rs.2,39,300/- as total sale consideration for the plot No.31. However, it was not approved by the authority concerned and as such, by the legal notice dated 30.01.2020, the petitioners called upon the second respondent to purchase any of the plots in plot Nos.12, 13, 14, 19, 20 & 21 by paying the remaining sale consideration if any. However, the said notice was returned unclaimed by the second respondent. Another notice was also sent by the petitioner dated 23.03.2020 for the very same request and the same was also not received and returned as unclaimed.

5. As per the complaint, the second respondent paid a sum of Rs.4,35,000/-. The said amount was already deposited by the petitioners while they were granted anticipatory bail. Therefore, the petitioners had no intention to cheat the second respondent at the time of entering into the agreement. They had agreed to sell the plot No.31. However, it was not approved and as such,



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they could not able to execute any sale deed in her favour. Instead of plot No.31, they had offered to sell any other house plot. However, the second respondent did not come forward to purchase any of the said plots.

6. In view of the above discussion, in order to meet the ends of justice, the the entire proceedings can be quashed on condition to withdraw the entire deposited amount by the second respondent. Accordingly, the entire proceedings in CC.No.1980 of 2020 on the file of the Judicial Magistrate Court-II, Coimbatore is quashed and this criminal original petition is allowed on condition that the second respondent is permitted to withdraw the entire amount which was deposited by the petitioners. As such, the second respondent is directed to withdraw the sum of Rs.4,35,000/- lying in the court in CC.No.1980 of 2020 on the file of the learned Judicial Magistrate-II, Coimbatore by filing proper application. The trial court is directed to permit the second respondent to withdraw the said amount without ordering any notice to the petitioners. Consequently, connected miscellaneous petitions are closed.

15.11.2023

Index :Yes/No

Internet : Yes/No



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Speaking order/non-speaking order
lok

To

- 1.The Judicial Magistrate Court-II,
Coimbatore
- 2.The Inspector of Police,
Kattoor Police Station,
Coimbatore City
- 3.The Government Advocate,
High Court of Madras



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G.K.ILANTHIRAIYAN, J.

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