



Crl.OP.No.22049 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

WEB COPY

DATED: 15.11.2023

CORAM:

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

Crl.OP.No.22049 of 2021

and

Crl.MP.Nos.10907 & 11883 of 2021

1.C.K.Amirthavalli

2.R.Rajesh

... Petitioners

Vs.

The Administrator General  
and Official Trustee of Tamilnadu  
rep by Head Clerk M.Abdul Razaak,  
Office of the Administrator  
General and Official Trustee of Tamilnadu,  
High Court Campus, Chennai-104

... Respondent

**PRAYER:** Criminal original petition is filed under Section 482 of Cr.P.C. to call for records and quash the complaint in CC.No.1227 of 2021 on the file of the VII Metropolitan Magistrate, George Town, Madras.

For Petitioners : Mr.V.Balasubramanian

For Respondent : Mr.C.S.S.Pillai

**ORDER**

This Criminal Original Petition has been filed to quash the complaint in CC.No.1227 of 2021 on the file of the VII Metropolitan



Crl.OP.No.22049 of 2021

Magistrate, George Town, Madras thereby taken cognizance for the offences under Sections 120B, 403, 406, 407, 468, 471 and 420 of IPC as against the petitioners.

2. Heard, the learned counsel appearing on either side.

3. The respondent lodged private complaint for the offence punishable under Sections 120B, 403, 406, 407, 468, 471 & 420 IPC alleging that the Trust Estate of C.Kandaswamy Naidu was vested with the respondent. It has various properties. A property was leased out to the first accused. The said lease deed was registered vide document No.175 of 1959. Though subsequently the said lease was renewed in her name, it was not registered. The main condition of the lease deed was that the first accused should not transfer the property to any one and she should not claim any rights over the property. She also promised that she will pay the lease amount without any fail. However, she failed to pay. Therefore, the respondent filed suit in OS.No.171 of 1972 on the file of the Sub Court, Chengalpet for delivery of possession, arrears of lease amount and also claiming damages. It was decreed by the judgment and decree dated 03.08.1973. In order to execute the said decree, the



Crl.OP.No.22049 of 2021

respondent filed execution petition in EP.No.277 & 278 of 1985 on the file of the District Munsif, Poonamallee. Thereafter, the vacant possession of the property was taken over on 30.01.1986. That apart, the first accused unauthorisedly entered the property with ulterior motive to grab the property without the knowledge of the respondent.

4. In the meanwhile, the Government of Tamilnadu had acquired 28.10 acres of land in different survey numbers of C.Kandaswamy Naidu Trust Estate, Maduravoil. The balance land admeasuring 30.46 acres was with the possession of the respondent. However, the accused had executed sale deeds on collusion with her husband and son. Therefore, the respondent caused notice to the first accused. Thereafter, she denied the said fact. In pursuant to the sale deed, third parties who were occupying the property with the permission of the first accused and her son, the second accused filed application before this court in AP.No.2284 to 2303 of 2008 seeking direction to execute a sale deed in their favour. Those applications were dismissed by this Court by an order dated 28.04.2008. Thereafter, the respondent directed the Tahsildar of Maduravoil to inspect the said property and to submit the report with regards to the present status of the said property. By its report dated



Crl.OP.No.22049 of 2021

28.01.2020, it is revealed that 977 persons are found in possession of the property. Those properties were sold out by the accused persons after receiving huge amount, thereby they committed very serious offence as against the public property. Therefore, there are specific allegations as against all the accused persons to attract the offences under Sections 120B, 403, 406, 407, 468, 471 and 420 of IPC.

5. The petitioners raised specific ground that the trial court ought not to have taken cognizance since there is a bar under Section 195 (1)(II) of Cr.P.C. from taking cognizance for the offence under Sections 193 to 196, 199, 200, 205 to 211 and Section 228. Whereas the petitioners are charged with offences under Sections 120B, 403, 406, 407, 468, 471 and 420 of IPC. The petitioners only to confuse this Court raised this ground and no other grounds are raised to quash the entire proceedings.

6. In view of the above discussion, this Court is not inclined to quash the impugned proceedings and this criminal original petition is dismissed. Considering the age of the first petitioner, the personal appearance of the first petitioner is dispensed with and she shall be represented by a



CrI.OP.No.22049 of 2021

counsel after filing appropriate application. However, the first petitioner shall be present before the Court at the time of furnishing of copies, framing charges, questioning under Section 313 Cr.P.C. and at the time of passing judgment. Consequently, connected miscellaneous petitions are closed.

15.11.2023

Index : Yes/No

Internet : Yes/No

Speaking order/non-speaking order  
lok



WEB COPY



CrI.OP.No.22049 of 2021

**G.K.ILANTHIRAIYAN, J.**

lok

To

- 1.The VII Metropolitan Magistrate,  
George Town, Madras.
- 2.M.Abdul Razaak,  
Head Clerk,  
The Administrator General  
and Official Trustee of Tamilnadu,  
Office of the Administrator  
General and Official Trustee of Tamilnadu,  
High Court Campus, Chennai-104

CrI.OP.No.20049 of 2021

15.11.2023