



Crl OP No. 21149 of 2019

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.03.2023

CORAM :

THE HONOURABLE MR. JUSTICE SUNDER MOHAN

Crl.O.P.No. 21149 of 2019

and

Crl.M.P.No. 10913 of 2019

1.Purushothaman

2.Dr.N.Vijayakumar

3.S.Nagaraja Rathinam

4.V.Harisudhan

5.T.U.Manoj

... Petitioners

Versus

P.C.Santhalingam

... Respondent

PRAYER : Criminal Original Petition has been filed under Section 482 of the Criminal Procedure Code, to call for the records in Calendar Case No.869 of 2019, on the file of the Judicial Magistrate Court No.VII, Coimbatore, Coimbatore District and



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quash the same.

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For Petitioners : Mr. R.Amandeep
for Ms. M.Stella

For Respondent : Mr. K.Venkatasubban
for M/s. Sarvabhauman Associates

O R D E R

The Criminal Original Petition is filed to quash the private complaint for the offences under Section 418, 420, 423, 468 and 471 of the IPC.

2. The allegations against the accused is that A 1 to A 15 had joined together and knowing fully well that the property belongs to the complainant had sold the property measuring an extent of 23.43 acres on 03.12.2010 to the petitioners herein, who are arrayed as A 16 to A 20. It is further alleged that A 1 to A 15 had also entered into a sale agreement for another extent of 5.55 acres with the petitioners herein on the same day. The complaint states that there are civil disputes between the complainant and the other accused in



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which the complainant had succeeded at all the stages of the proceedings.

3. The learned counsel for the petitioners would submit that even if the allegations are accepted to be true, allegation against the petitioners do not attract the offences alleged. The learned counsel would further submit that the petitioners had purchased the property based on the representation made by the other accused and also the fact that the revenue records stood in the name of A 1 to A 15. The learned counsel would further submit that after coming to know that the other accused had no title or right over the property, the petitioners had cancelled the sale deed and sale agreement on 05.02.2013 vide document Nos.1769 of 2013 and 618 of 2013, respectively. The learned counsel would therefore submit that the petitioners who were innocent purchasers are not guilty of the offences alleged in the complaint and prayed for quashing of the proceedings as against the petitioners.



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4. The learned counsel for the complainant would submit that there are allegations against the petitioners. The question, whether the petitioners are innocent purchasers or had executed the sale documents in conspiracy with other accused are the matters for trial and cannot be adjudicated in the quash petition. Hence, the learned counsel for the complainant prayed for the dismissal of the quash petition.

5. This Court finds that the petitioners have purchased the property from the other accused, namely, A 1 to A 15 based on the fact that the revenue records stood in their name. However, on coming to know that A 1 to A 15 had no right or title towards the property, the petitioners had cancelled the sale deed and the sale agreement on 05.02.2013. This conduct would show that the petitioners were *bona fide* and innocent purchasers. That apart, there is no allegation of either forgery or cheating as against these petitioners. The petitioners had purchased the property based on a false claim of title by the other accused and that would not attract



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offences alleged. The Hon'ble Supreme Court in ***Mohamed***

Ibrahim Vs. State of Bihar reported in 2009 (8) SCC 751 held

that in the absence of forgery, sale made by falsely claiming title would not amount to forgery.

6. In the result, the Criminal Original Petition is allowed and the impugned complaint as against the petitioners herein / A 16 to A 20 is alone quashed. Consequently, the connected Miscellaneous Petition is closed. No costs.

7. The learned Trial Judge, may expedite the Trial in respect of the other accused, namely, A 1 to A 15 and preferably complete the same within a period of 1 year from the date of receipt of a copy of this order.

30.03.2023

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Index: Yes/No

Speaking Order / Non-Speaking Order

Neutral Citation: Yes / No



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To

The Judicial Magistrate Court No.VII,
Coimbatore.



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SUNDER MOHAN, J

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