



CrI.O.P.No.24872 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.02.2023

CORAM

THE HONOURABLE MS.JUSTICE R.N.MANJULA

CrI.O.P.No.24872 of 2019 and
CrI.M.P.No.13256 of 2019

1.P.Shanmugam
2.P.Mani
3.R.Premavathy
4.M.Kalaivani
5.P.S.Karthikeyan

... Petitioners / Accused Nos.1 to 5

Vs.

1.State Rep by
The Sub-Inspector of Police,
Sankagiri Police Station,
Salem District.
(Crime No.279 of 2019)

2.Rajendran

... Respondents

Prayer : Criminal Original Petition has been filed under Section 482 of Cr.P.C. to call for the records in FIR No.279 of 2019 on the file of the first respondent and quash the same.

For Petitioners

... Mr.M.R.Thangavel

For Respondents

... Mr.A.Gopinath,
Govt. Advocate (CrI.Side) for R1
No appearance for R2



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ORDER

This Criminal Original Petition has been filed to call for the records in FIR No.279 of 2019 on the file of the first respondent and quash the same.

2. Heard the learned counsel for the petitioners and the learned Government Advocate (Crl.Side) for the first respondent.

3. The petitioners are the accused 1 to 5. As per the complaint of the second respondent, he has borrowed a sum of Rs.2,00,000/- from the first petitioner and for which he had executed a sale agreement in favour of the fourth petitioner in respect of the lands situated in S.Nos.174/1B2, 174/1B1, 174/1B3 and 170/5B of Olakachinnanoor Village, Sankagiri Taluk, Salem District. The second respondent had borrowed a further sum of Rs.1,00,000/- from the first and second petitioners and he had executed two sale deeds in favour of the third petitioner as security for the loan borrowed by him. After he had repaid the loan, he asked the petitioners to re-convey the lands in his favour. But the petitioners refused to do the same. On these allegations, a case has been registered in Crime No.279 of 2019 for the offences under Sections 120(B), 406, 420, 506(i) of IPC.

4. The learned counsel for the petitioners submitted that even as per



the allegations made by the second respondent / defacto complainant, he had executed a perfect sale deed in favour of the third petitioner and it is not a conditional sale; subsequent to the execution of the sale deed, the third petitioner had taken possession of the properties and revenue records were also mutated in the name of the third petitioner; after having sold the property, the second respondent had made a lame attempt and given a criminal complaint.

5. The learned Government Advocate (Crl.Side) submitted that the defacto complainant had executed a sale deed only as a security for the loan availed by him; only after a detailed investigation is done, the real facts would come to light.

6. The allegations made in the complaint would show that on 14.11.1995, the defacto complainant is said to have availed a loan of Rs.2,00,000/- from the first petitioner and as a security, he executed a sale agreement in favour of the fourth petitioner in respect of the lands situated in S.Nos.174/1B2, 174/1B1, 174/1B3 and 170/5B of Olakachinnanoor



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Village, Sankagiri Taluk, Salem District. He is said to have availed another

loan of Rs.1,00,000/- from the first and second petitioners on 11.02.1997.

During that time, he had executed two sale deeds in favour of the third petitioner who is the wife of the first petitioner in respect of the same properties. The second respondent who had knowingly executed the sale deed in favour of the third petitioner and allowed to confer title in respect of the subject properties in favour of the third petitioner, has filed the complaint by claiming that the sale deed was executed only as a security and not with an intention to convey title in favour of the third petitioner.

7. The sale deed pertains to the year 1997 and the complaint has been preferred after 22 years (i.e) on 03.09.2019. The third petitioner after becoming the owner of the properties by virtue of a sale deed dated 11.02.1997 had mutated the revenue records also in her favour. The second respondent had stated that he had paid the loan amount in the year 1998 and sought re-conveyance. From 1998 to 2019, he has not taken any action to declare the sale deed as null and void. The sale deed which is a written document would have the benefit of Section 92 of the Evidence Act. Even



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for any extraneous reasons, the second respondent / defacto complainant claims that the sale deed has been executed by him without understanding its impact etc., he ought to have approached the Court within the period of limitation by way of filing a Civil Suit. The second respondent who knowingly executed the sale deed in favour of the third petitioner, cannot fasten any criminal liability against the petitioners 1 to 5. The complaint on the face of it does not make any offence against the petitioners. Hence it is an appropriate matter where the powers of this Court should be exercised under Section 482 of Cr.P.C. in order to prevent abuse of law.

8. In view of the above stated reasons, this Criminal Original Petition is allowed and the proceedings in FIR No.279 of 2019 on the file of the first respondent is quashed. Consequently, connected miscellaneous petition is closed.

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Index: Yes/No
Internet: Yes/No
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R.N.MANJULA ,J.

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To

1.The Sub-Inspector of Police,
Sankagiri Police Station,
Salem District.

2.The Public Prosecutor,
High Court, Madras.

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Crl.M.P.No.13256 of 2019

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