



*Crl.O.P.No.26401 of 2019
and CRL.MP.No.14114 of 2019*

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.01.2023

CORAM:

THE HONOURABLE Ms.JUSTICE **R.N.MANJULA**

Crl.O.P.No.26401 of 2019
and
CRL.MP.No.14114 of 2019

1. Bharatha Kodi
2. Duraikannu
3. Dhasarathan

...Petitioners

-Vs-

1. The State Rep. by the
The Inspector of Police,
District Crime Branch,
Villupuram, Villupuram District.
2. Neelamegan

... Respondents

Prayer: Criminal Original petition filed under Section 482 of Code of Criminal Procedure, praying to call for the records pending on the file of the 1st respondent police namely Inspector of Police, District Crime Branch, Villuppuram, Villuppuram District in Crime No.7 of 2019 and to quash the Criminal proceeding.

For Petitioners : Mr.E.Kannadasan

For Respondents : Mr.A.Gopinath

Government Advocate (Crl. Side) for R1
R2-No Appearance

ORDER



*Crl.O.P.No.26401 of 2019
and CRL.MP.No.14114 of 2019*

WEB COPY

This Criminal Original Petition has been filed to call for the records in Crime No.7 of 2019 and quash the same as against the petitioner.

2. The case of the prosecution is that the second respondent/*defacto* complainant is the owner of the properties in Survey Nos.117/1, 113/2, 113/7, 116/2, 116/3C, 114/5A measuring a total extent of 9 acres 20 cents situated at Irumbai Village, Vanur Taluk, Villupuram District. On 13.06.2018, the 1st accused impersonated the 2nd respondent and executed a Power of Attorney in favour of the 2nd accused in respect of the said properties and the same was registered vide Document No.2647/2018 at the Sub Registrar's Office, Vanur. The 3rd and 4th accused have signed as witnesses for the said document. Subsequent to that, the 2nd accused had executed a registered sale agreement in favour of 2nd and 3rd petitioners/A9 & A10, who are the accused 9 & 10. The 1st petitioner/5th accused and 6th accused have attested the sale agreement as witnesses. The 7th accused and 8th accused are the document writers. After coming to know about the fraudulent documents, the 2nd respondent had preferred police complaint on which a case has been registered in Crime No.7 of 2019 for the offences



*Crl.O.P.No.26401 of 2019
and CRL.MP.No.14114 of 2019*

WEB COPY

under Sections 120(b), 419, 423, 467, 468, 471 of IPC.

3. The learned counsel for the petitioners submitted that the petitioners, who are the accused 5, 9 & 10 did not have any criminal intention and the 5th accused has just attested the sale agreement without knowing the earlier overtact on the part of the 2nd accused in executing the power of attorney; the 2nd and 3rd petitioners/A9 & A10 have also innocently entered into an agreement with the 2nd accused by believing that the power of attorney document is a genuine one; after coming to know about the problems surrounding their agreements, they cancelled the same on 10.10.2018 under a registered Cancellation Deed.

4. The learned Government Advocate (Crl. Side) appearing for the first respondent submitted that only if the investigation is conducted, the true intention on the part of these petitioners in getting the sale agreement in favour of the petitioners 2 and 3 can be known.

5. So far as the 5th accused is concerned, he had attested the sale agreement, in which the 2nd accused had signed the same on behalf of the seller. The 2nd and 3rd petitioners/A9 & A10 are the proposed purchasers, who had entered into the sale agreement on the strength of the power of



*Crl.O.P.No.26401 of 2019
and CRL.MP.No.14114 of 2019*

WEB COPY

attorney, which is shown to them by the 2nd accused. On coming to know about the criminality involved in the power of attorney document, the petitioners 2 & 3/A9 & A10 had cancelled the same.

6. The attestation made by the 5th accused is just to confirm that it is the 2nd accused, who had signed the sale agreement. Apparently, the action of the 5th accused cannot be tainted with any criminality, because he had attested the signatures of the true persons. So far as the petitioners 2 & 3/A9 & A10 are concerned, they had entered into the sale agreement by believing that the 2nd accused had got the power to enter into the sale agreement on behalf of the original owner. After the 2nd respondent had given the complaint, the petitioners 2 and 3 came to know about the fraud committed in getting the power of attorney document, thereafter, they immediately cancelled the sale agreements, so the conduct on the part of the petitioners 1 to 3 do not reveal any criminal intention. Without any *prima facie* material to make out any cognizable case against the petitioners 1 to 3/A5, A9 & A10, it is unnecessary to keep them as accused in this case.



*Crl.O.P.No.26401 of 2019
and CRL.MP.No.14114 of 2019*

WEB COPY

7. Taking into consideration the absence of any material to impute any criminal intention on these petitioners, I feel it is appropriate to quash the FIR in Crime No.7 of 2019 against the petitioners, by exercising the powers under Section 482 Cr.P.C.

8. In the result, this Criminal Original Petition is Allowed. The proceedings in Crime No.7 of 2019 on the file of the 1st respondent is hereby quashed as against the petitioners. Consequently, connected Miscellaneous petition is closed.

24.01.2023

Index : Yes/No

Speaking/Non Speaking order

Neutral Citation Case: Yes/No

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To

1. The Inspector of Police,
District Crime Branch,
Villupuram, Villupuram District.
2. The Public Prosecutor,
High Court of Madras,
Chennai-600 104.



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*Crl.O.P.No.26401 of 2019
and CRL.MP.No.14114 of 2019*

R.N.MANJULA, J

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Crl.O.P.No.26401 of 2019
and CRL.MP.No.14114 of 2019

24.01.2023