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CrI.O.PNo.30260 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.04.2023

CORAM

THE HONOURABLE MR. JUSTICE SUNDER MOHAN

CrI.O.P.No.30260 of 2019

and

CrI.M.P.Nos.16367 of 2019 & 5069 of 2023

1.Captain Suresh Bharadwaj

2.Aprajitha Bharadwaj

...Petitioners

Vs.

1.The State rep. by its
The Inspector of Police,
CCB, Team-XV, Chennai.

2.K.Ramasamy

...Respondents

Prayer:- Criminal Original Petition filed under Section 482 of Cr.P.C., calling for the records in C.C.No.1367 of 2013 pending on the file of the Judicial Magistrate, Alandur and quash the same.

For Petitioners : Mr.K.P.Anantha Krishna

For Respondents : Mr.S.Balaji

Government Advocate (CrI. Side)

Mr.Arun Anbumani

for Mr.P.T.Ramkumar for R2



ORDER

This petition is filed to quash the final report in C.C.No.1367 of 2013 filed for the offences under Sections 420, 467, 468 r/w. 471 and 468 r/w. 120B IPC.

2.It is alleged in the final report that A1 had impersonated the de-facto complainant and executed a general power of attorney in favour of A2. A1 and A2 sold the property in question to A3 / A.S.M.Khaja Mohideen on 19.02.2003 by sale deed bearing Document No.477 of 2003; that A3 had executed a power of attorney in favour of his wife, which was registered in Document No.6 of 2004 on 22.03.2004 and at SRO, Palayankottai and that A4 as power agent of A3 executed a sale deed in favour of the petitioners for a sale consideration of Rs.15,00,000/-, which was registered in Document No.2414/2004 on 29.04.2004.

3.The learned counsel appearing for the petitioners submitted that the petitioners are innocent purchasers and there is absolutely no allegation in the impugned final report, suggesting that the petitioners had knowledge



about the alleged impersonation by A1; that the statement of witnesses and the materials filed in support of the final report do not in any manner point out to the guilt of the petitioners. Hence, the learned counsel prayed for quashing of the final report in so far as the petitioners are concerned.

4.The learned counsel appearing for the 2nd respondent and the learned Government Advocate (Crl. Side) submitted that the first transaction wherein, A1 had impersonated as the defacto complainant took place on 17.02.2003 and sale deeds have been executed within a span of one year. The learned counsel for the 2nd respondent further submitted that the first petitioner had sold one plot out of the two plots purchased by him to his mother-in-law without any valid consideration; that those circumstances would establish the petitioners' complicity in the alleged crime and; that the question as to whether the petitioners were involved in the alleged conspiracy is a matter for trial and prayed for dismissal of the quash petition.



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5.This Court, on perusal of the impugned final report finds that the allegation of impersonation is made only against A1. He had executed power of attorney in favour of A2 by impersonating as defacto complainant. There is no allegation implicating the petitioners in the alleged impersonation. This Court finds that the petitioners have purchased the property for valid consideration. The first petitioner is a Professor and a retired Captain in Indian Navy. That apart, this Court finds that the first petitioner had sold the property to his mother-in-law for a valid sale consideration. This Court had perused the sale deed executed by the first petitioner in favour of his mother-in-law. Thus, there are no other materials to connect the petitioners with the alleged conspiracy. Even assuming that the 1st petitioner had executed sale deed in favour of his mother-in-law without consideration, we cannot infer conspiracy in the absence of any other material.

6.In such circumstances, it may not be in the interest of justice to ask the petitioners to face the trial. This Court is of the view that the impugned proceedings is an abuse of process of law in so far as the petitioners are



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concerned. This Court is inclined to quash the final report as regards the petitioners alone. However, quashing of the final report against the petitioners would not affect the right of any of the parties to pursue other remedies available in law.

7.This Criminal Original Petition is allowed with the above observation. No costs. Consequently, connected miscellaneous petitions are closed.

19.04.2023

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Internet : Yes/No

Index: Yes/No

Speaking / Non-speaking order

Nuetral Citation :Yes/No



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SUNDER MOHAN, J.

KKN

To:-

- 1.The Inspector of Police,
CCB, Team-XV, Chennai.
- 2.The Judicial Magistrate,
Alandur.
- 3.The Public Prosecutor
High Court of Madras,
Madras.

CrI.O.P.No.30260 of 2019
and
CrI.M.P.Nos.16367 of 2019 & 5069 of 2023

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