



Crl.O.P.No.31160 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.02.2023

CORAM:

THE HONOURABLE MS JUSTICE R.N.MANJULA

Crl.O.P.No.31160 of 2019 and
Crl.MP. No.16980 of 2019

1. Bagyalakshmi
2. Satheesh

... Petitioners

Vs.

1.The State by
the Inspector of Police,
Koyambedu Police Station,
Chennai.

2. Saravanan

... Respondents

Criminal Original Petition filed under Section 482 of the Criminal Procedure Code, to call for the records in Crime No.814 of 2019 on the file of the 1st respondent herein and quash the investigation insofar as the petitioners are concerned.

For Petitioners : Mr.V.V.Sairam

For 1st Respondent : Mr.A.Gopinath,
Government Advocate (Crl. Side)

For 2nd Respondent : Mr.S.Janarthanam



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ORDER

This Criminal Original Petition is filed to quash the FIR in Crime

No.814 of 2019 on the file of the 1st respondent, Police.

2. The petitioners are the accused A2 and A3. The case of the prosecution is that the 2nd respondent / defacto complainant was introduced to one Loganathan (A1) in the year 2018. On the information given by the said Loganathan(A1) that the house of his sister (the first petitioner / A2) was under sale, the 2nd respondent had approached the petitioners for buying the said house; after fixing the sale price at Rs.52 lakhs, the 2nd respondent and his friend proposed to buy the same. Towards a part sale consideration, a sum of Rs.6 lakhs was transferred to the account of A1 and another sum of Rs.6 lakhs was also transferred after two days to the account of A1, Loganathan. On 07.11.2008, the A1 along with A2 and A3 came to the house of the 2nd respondent and received a sum of Rs.10 lakhs in cash. After receiving the said cash, the accused gave 5 Corporation Bank Cheques. However, after having received all the said sums, the house was sold to the third party, without the knowledge of the 2nd respondent. On this ground, a case has been registered against the petitioners in Crime No.814 of 2019 for



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the offences under Sections 406 and 420 of I.P.C.,

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3. Heard the learned counsel for the petitioners, the learned Government Advocate (Crl. Side) appearing for the 1st respondent and the learned counsel for the 2nd respondent.

4. The learned counsel for the petitioners submitted that the allegations *prima facie* does not disclose any transaction between the petitioners and the 2nd respondent. The petitioners never received any money from the 2nd respondent for the purpose of selling any house. Without the production of the sale agreement in this regard, the complaint has been preferred without any basis. Even if it is presumed that the amount has been sent to the account of A1 Loganathan for the purpose of alleged sale, the parties would have filed a suit for specific performance. Without any relevant materials, the accused have been impleaded as parties to the proceedings and hence the proceedings against the petitioners should be quashed.

5. The learned Government Advocate (Crl. Side) and the learned



counsel appearing for the 2nd respondent submitted that only if the investigation is allowed to go on, the veracity of the submission made by the petitioners will come to light.

6. As stated by the learned counsel for the petitioners, the 2nd respondent has not produced any sale agreement. However, it appears that for some reason, certain amount is said to have been given to the petitioners by cash. Even the other two transactions have also been done through the middle man by name Loganathan's account. Only if a detailed investigation is allowed to be done, it can come to light why the parties postponed the execution of the sale agreement and whether the payments were made for the purpose of buying the house belonged to the petitioners or whether the amount involved is meant for some other purpose. Even though the transaction can simply be a money transaction, if the intention of the petitioners is to cheat the defacto complainant, then the criminality tainted in the transaction cannot be overlooked. At the inception of the case, the Court cannot conduct any mini trial in order to find out the real intention of the parties. Hence, I feel it is appropriate to allow the investigation to be



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continued.

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7. In the result, this Criminal Original Petition stands dismissed.

Consequently, connected Criminal Miscellaneous Petition stands closed.

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vum

Index:yes/No

Speaking order / Non speaking order

To

1.The Inspector of Police,
Koyambedu Police Station,
Chennai.

2.The Public Prosecutor,
Madras High Court,
Chennai.



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R.N.MANJULA,J.

vum

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