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*Crl OP No.33940 of 2019*

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.01.2023

CORAM:

The HONOURABLE MS.JUSTICE R.N.MANJULA

Crl OP No.33940 of 2019  
and Crl MP Nos.18730 & 18732 of 2019

1.Mani  
2.Rajeswari  
3.Kamavel

.. Petitioners

VS

1.The Inspector of Police,  
Anti Land Grabbing Cell,  
Cuddalore.

2.K.Murugesan

.. Respondents

Petition filed under Section 482 of Cr.P.C to call for the records  
in C.C.No.693 of 2019 on the file of the learned Judicial Magistrate  
No.3, Cuddalore and quash the same.

|                 |   |                                                                                              |
|-----------------|---|----------------------------------------------------------------------------------------------|
| For Petitioners | : | Mr.N.Suresh                                                                                  |
| For Respondents | : | Mr.A.Gopinath<br>Government Advocate<br>(Criminal side) for R1<br>Mr.S.C.Viswanath<br>for R2 |



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ORDER

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1. This petition has been filed to call for the records in C.C.No.693 of 2019 on the file of the learned Judicial Magistrate No.3, Cuddalore and to quash the same.

2. The petitioners are accused 1 to 3 against whom the defacto complainant has given a complaint by alleging that they had created sale deeds by setting up false titles in favour of themselves. The subject matter of the dispute is a property measuring 18 cents in S.No.179/9. After completing the investigation, charge-sheet has been filed and the petitioners have been charged for the offences punishable under Sections 420, 423, 465, 471, 506(i) IPC r/w 120 (b) IPC.

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

4. Learned counsel for the petitioners submitted that the matter is purely civil in nature and the case has been given a criminal colour. Instead of directing the parties to dispute their title before the



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Civil Court, the first respondent has filed the charge-sheet. So far as the third petitioner is concerned, he has purchased the property from petitioners 1 and 2 by virtue of a sale deed dated 08.09.2008 executed by the Principal Sub Judge, Cuddalore in favour of the third petitioner pursuant to the decree of the Court in a suit for specific performance filed by him in O.S.No.116 of 2007 against petitioners 1 and 2.

4.1. The learned counsel for the petitioners further submitted that the original owner of the property is one Mani and who enjoyed the property as his ancestral property and settled the same in favour of his wife Rajeswari / second petitioner herein, who had executed the sale agreement in favour of the third petitioner on 28.02.2007. The sale deed was not executed as per the sale agreement and hence the third petitioner had filed a suit for specific performance in O.S.No.116 of 2017 and in which the decree has been passed on 13.11.2007.

5. The learned Government Advocate (Criminal Side) has submitted that only for the purpose of grabbing the land belonging to the defacto complainant, the transactions in the name of the petitioners were created and that was found out during the investigation.



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6. The learned counsel for the respondent has also adopted the arguments in the line of the submissions made by the learned Government Advocate (Criminal Side).

7. So far as the second respondent is concerned, he has purchased the very same property from one Murugesan on 07.02.2013 through fresh registered sale deed. Prior to the said purchase, the said Murugesan had filed suit for permanent injunction against these petitioners in O.S.No.112 of 2011 and the same was decreed. However, the ex-parte decree was set aside and subsequently it was dismissed on 25.07.2016, in which, it is stated that the petitioners had taken advantage of the non-mentioning of the survey number of the subject property in the title deed and got the settlement deed dated 02.08.2004 and sale agreement dated 28.02.2007.

8. Whatever may be the case, the civil Court has to trace the title of the respective parties in a suit filed by them. Apparently, at a time when the title deeds have been executed by the petitioners among themselves, the defacto complainant in the previous title deeds mentioned the survey number of the subject property. So it is



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obviously a matter which is civil in nature and it is for the Civil Court to decide which of the two claimants of the same property has got the title by tracing out title. Since the matter is purely civil in nature, this Court is inclined to quash the proceedings.

9. Accordingly, C.C.No.693 of 2019 pending on the file of the learned Judicial Magistrate No.3, Cuddalore is quashed and this Criminal Original Petition is allowed. Consequently, connected miscellaneous petitions are closed.

09.01.2023

Index:Yes/No  
Neutral Citation:Yes/No  
ssm

To

- 1.The Judicial Magistrate No.3,  
Cuddalore.
- 2.The Inspector of Police,  
Anti Land Grabbing Cell,  
Cuddalore.
- 3.The Public Prosecutor,  
High Court, Madras.



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R.N.MANJULA.,J

ssm

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