



Crl.O.P.No. 33540 of 2019

WEB COPY IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.04.2023

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THE HONOURABLE MR. JUSTICE SUNDER MOHAN

Crl.O.P. No. 33540 of 2019

and

Crl.M.P. No. 18507 of 2019

1.P.Shanmugam

2.P.Mani

3.M.Kalaivani

4.Saravanan

5.P.S.Karthikeyan

... Petitioners

Vs.

1.State represented by
Inspector of Police,
Sankagiri Police Station,
Salem District.

2.Selva Arasu

... Respondents



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PRAYER: Criminal Original Petition filed under Section 482 of the Criminal Procedure Code, to call for the records in F.I.R.No.343 of 2019 on the file of the 1st respondent and quash the same.

For Petitioners : Mr. M.R.Thangavel
For Respondent 1 : Mr. A.Damodaran
Additional Public Prosecutor
For Respondent 2 : Mr.T.Balaji
for Mr. A.Thiagarajan

ORDER

The above petition is filed to quash the FIR in Crime No.343 of 2019 for the alleged offences under Section 294(b), 120-B, 409, 420 & 506(i) of the Indian Penal Code and under Section 4 of the Tamilnadu Prohibition of Charging Exorbitant Interest Act, 2003.

2. It is alleged in the FIR that the 2nd respondent and one Natchimuthu had obtained a loan of Rs.7,50,000/- from the 1st and 2nd



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petitioners and executed a sale deed on 06.12.1996, in respect of the land situate at S.Nos.36/7, 27/1A8, 1A9, 1A11, Iveli Village, Sankagiri Taluk, measuring an extent of 1 acre, as a security for the loan received by them; that the 2nd respondent and the said Natchimuthu had obtained a further sum of Rs.3,50,000/- as loan from the petitioners and executed a general Power of Attorney in favour of the 2nd petitioner in respect of another property measuring 25 cents in S.No.27/18, 1A9 & 1A11; that a sale deed was executed by the 2nd petitioner in favour of the 5th petitioner as a power agent in respect of the said 25 cents; that the 2nd respondent had settled the entire loan amount between 1998 to 2000; and that he had approached the petitioners seeking re-conveyance of the said lands and he was threatened by the petitioners with dire consequences; and that therefore, the petitioners are liable for the offences of Section 294(b), 120-B, 409, 420 & 506(i) of the Indian Penal Code and under Section 4 of the Tamilnadu Prohibition of Charging Exorbitant Interest Act, 2003.



3. The learned counsel for the petitioners would submit that admittedly the 2nd respondent had executed a sale deed in favour of the 3rd petitioner in the year 1996 for an extent of 1 acre and executed a Power of Attorney in favour of the 2nd petitioner, in respect of 25 cents in the year 1997. The 2nd petitioner had acted upon the Power of Attorney and executed a sale deed in favour of the 5th petitioner in the year 2008.

4. The learned counsel would submit that it is the case of the 2nd respondent that the loan was repaid between the years 1998 and 2000. While so, the impugned complaint given in the year 2019 is nothing but an abuse of process of law and it is only an attempt to grab the property that was lawfully transferred to the petitioners. There is no document to show that a loan was obtained by the 2nd respondent; that he had paid interest for the said loan. Hence, none of the allegations are made out.



5. The learned counsel for the 2nd respondent, however would submit that the petitioners have made it appear that it is the case of sale transaction. The petitioners exploited the situation of the 2nd respondent and obtained the sale deeds. The 2nd respondent is struggling to redeem the properties since 2000. The petitioners have failed to honour their promise to re-convey the property, inspite of receipt of the loan amount.

6. The learned Additional Public Prosecutor reiterated the submissions made by the learned counsel for the 2nd respondent and submitted that since the matter is under investigation, the impugned complaint may not be quashed and prayed for the dismissal of the quash petition.

7. This Court on perusal of the impugned FIR finds that admittedly the sale deed in respect of one property was executed on 06.12.1996. The Power of Attorney in respect of the other property executed in the year 1997 was acted upon in the year 2008, and a sale



deed was executed in favour of the 5th accused. The allegation is that the 2nd respondent had repaid the entire loan amount between the period from 1998 to 2000; and that however, the petitioners did not re-convey the property as promised by them. Admittedly, the 2nd respondent has not filed any civil suit either for challenging the sale deeds or for redemption of the property. No documents have been produced by the 2nd respondent to show that he had obtained a loan from the petitioners and that he had been paying interest to the petitioners.

8. The complaint given nearly 19 years after the alleged transaction and which is contrary to the terms of the registered document cannot be entertained by the respondent Police. The impugned FIR is therefore clearly an abuse of process of law. None of the offences have been made out. There is no allegation that the petitioners have uttered obscene words or made any real threat in order to attract offences of Section 294 (b) and 506 (i) of IPC. Further, neither cheating nor breach of trust is made out on the allegation to



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attract the offences under Section 420 and 409 IPC.

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9. As regards offence under Section 4 of the Tamilnadu Prohibition of Charging Exorbitant Interest Act, as stated earlier, no document has been produced to show the payment of interest by the 2nd respondent to the petitioners. The impugned FIR is therefore an abuse of process of law and is liable to be quashed.

10. In the result, the petition is allowed. Consequently, the connected miscellaneous petition is closed. No costs.

25.04.2023

Index : Yes/No
Internet : Yes/No
Neutral Citation : Yes/No
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To

The Inspector of Police,
Sankagiri Police Station,



Salem District.

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SUNDER MOHAN. J.

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