



Crl.O.P.No.19028 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 31.01.2023

CORAM:

THE HONOURABLE MS JUSTICE R.N.MANJULA

Crl.O.P.No.19028 of 2019 and
Crl.M.P.No.10890 of 2019

1. Kothandaraman
2. Mageshwari

...Petitioners / Accused 3 and 4

Vs.

1. The state rep. by
the Inspector of Police,
District Crime Branch,
Kancheepuram District.

2. K.Ganapathy

...Respondents

Criminal Original Petition filed under Section 482 of the Criminal Procedure Code, to call for the records and quash the proceedings pending before the learned Judicial Magistrate II, Chengalpet in C.C.No.296 of 2015 under Section 465, 468, 471, 120B, 420 & 506 (i) I.P.C.,

For Petitioners : Mr.K.Sasindran

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

For 2nd Respondent : No appearance



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ORDER

This Criminal Original Petition is filed seeking to quash the proceedings in C.C.No.296 of 2015 on the file of the learned Judicial Magistrate II, Chengalpet.

2. The petitioners are A3 and A4. The case of the prosecution is that the subject property is the share allotted to Rajaram Reddiyar and Ramu Reddiyar, sons of Punniyakodi. The said Punniyakodi is the brother of one Subba Reddy (A1). Knowing pretty well about the shares of the sons of Punnikodi, his brother Subba Reddy had managed to mutate UDR records in his name and during family partition, the subject property was allotted to his first wife, Yasodha (2). After the demise of Subba Reddy, knowing pretty well that neither Subha Reddy nor Yasodha has got any title over the property, the said Yasodha has executed a sale deed fraudulently in the name of Maheswari (A4) who is the daughter of the land broker known to Yasodha, on 05.04.2004. Subsequently, the said Maheswari has sold the property to the 2nd respondent (defacto complainant) for a sum of Rs.38 lakhs. When the 2nd respondent came to know about the fraud committed by his vendor, Maheswari in connivance with the family members of the Subba



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Reddy, he approached them, but they abused the 2nd respondent and threatened him. On the said allegation, a case has been filed in C.C.No.296 of 2015 against the accused 1 to 6. Hence, the petitioners who are A3 and A4 have preferred this Criminal Original Petition to quash the proceedings in C.C.No.296 of 2015.

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

4. The learned counsel for the petitioners submitted that already a civil case was filed by one Javagar, the legal heir of Rajaram Reddiyar against the vendor of the 2nd respondent, Maheswari and others in O.S.No.64 of 2012 before the learned District Munsif, Madurantakam. The said suit was dismissed since the said claim was settled out of Court. Since the legal heir of Rajaram Reddiyar had settled the dispute among themselves, there need not be any grievance for the 2nd respondent and hence there is no necessity to subject the accused to undergo the ordeal of trial.



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5. The learned Government Advocate (Crl. Side) submitted that the said suit has been filed by the legal heir of Rajaram Reddiyar. But the brother of Subba Reddy had two sons by name Rajaram Reddiyar and Ramu Reddiyar. Unless the legal heirs of the Ramu Reddiyar also joined along with the plaintiff who is the legal heir of Rajaram Reddiyar and filed a suit by stating that they had no objection, then it can be said that the 2nd respondent did not have any grievance. The records would reveal that the petitioners (A3 and A4) had colluded with the accused 1 and 2 and created documents just in order to enrich the unlawful accounts. Hence, the accused cannot claim that there is no criminal intention on their part.

6. The 2nd respondent had purchased the subject property from the 2nd petitioner, Maheswari, A4 who is the daughter of the first petitioner (A3). The vendor of A4 is A2, Yasodha who is the wife of Subba Reddy. The allegation made in the complaint is that the subject property was originally allotted to the share of the Subba Reddy's brother's sons Rajaram Reddiyar and Ramu Reddiyar. The brother of Subba Reddy is Punniyakodi. Subba Reddy managed to get his name entered in UDR records and created



partition deed and by which the property has been allotted to his second wife Yasodha. Prior to the partition deed, the sons of Punniyakodi namely Rajaram Reddiyar and Ramu Reddiyar did not execute any Release Deed in respect of their right over the property. Subsequently, the 2nd accused Yasodha sold the property in favour of the 2nd petitioner (A4) and A4 in turn sold the property to the 2nd respondent. The intention of Subba Reddy in creating the documents in the name of his second wife Yasodha and subsequent sale by A4, came to be known to the 2nd respondent only when he attempted to sell the property in favour of one Chandrasekar. After coming to know about the problem, he had returned the sale consideration to Chandrasekar and lodged a criminal complaint against the accused and hence the delay occurred in lodging the complaint. Since the fraud committed by the accused came to the knowledge of the 2nd respondent only when he made arrangements to sell the property in favour of third party, the delay cannot defeat the cause.

7. In so far as the first accused is concerned, he did not have any title over the property as pointed out by the learned Government Advocate (Crl.



Side). The properties were allotted to the sons of Punniyakodi, brother of Subba Reddy. The original owners namely Rajaram Reddiyar and Ramu Reddiyar got the subject property in the family partition and in such circumstance, Subba Reddy has got no right to create any document in favour of his second wife or any other subsequent purchasers. The matter has been investigated at length and sufficient materials produced to doubt the intention of the first accused and the other accused and that warrants an exhaustive trial. If the legal heirs of both Rajaram Reddiyar and Ramu Reddiyar had arrived at any mutual understanding with Subba Reddy and filed a compromise memo before the Court and made it a form part of a decree that could have been a better settlement. Since only few of the legal heir of one of the original owners came and reported that the matter is settled out of Court, it cannot be taken that it will bind the other owner as well. Since the records have been created by persons who did not have any title, the prosecution has filed the charge sheet against the accused. Since there are sufficient materials available to make out a case against the accused, the Court has rightly taken cognizance.



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8. In view of the above stated reasons, this Criminal Original Petition

stands dismissed. Consequently, connected miscellaneous petition is closed.

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Index:yes/No

Speaking order / Non speaking order

To

1. The Inspector of Police,
District Crime Branch,
Kancheepuram District,
2. The Public Prosecutor,
Madras High Court,
Chennai.



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R.N.MANJULA,J.

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