



Crl.O.P.(MD)No.1049 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 04.08.2023

CORAM

THE HON'BLE MR.JUSTICE P.DHANABAL

Crl.O.P.(MD)No.1049 of 2021
and Crl.M.P(MD).No.474 of 2021

1.M.Deena @ Deenadayalan
2.B.Anbalagan

... Petitioners

Vs.

1.The State through
The Inspector of Police,
District Crime Branch,
Madurai District.
Crime No.2 of 2012.

2.B.Dhanavalli

... Respondents

PRAYER : Criminal Original Petition filed under Section 482 of Criminal Procedure Code, to call for the records in C.C.No.587 of 2019 on the file of the Judicial Magistrate No.1, Madurai and quash the same in respect of the petitioners/accused No.2 and 3.

For Petitioners : Mr.M.P.Dhamodaran

For R1 : Mr.M.Sakthi Kumar
Government Advocate (Crl. Side)

For R2 : No-appearance



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ORDER

This Criminal Original Petition has been filed to call for the records in C.C.No.587 of 2019 on the file of the learned Judicial Magistrate No.1, Madurai and quash the same in respect of the petitioners herein.

2. According to the petitioners, they have been doing real estate business. The second respondent has approached the second petitioner through one Shanmugarajeswaran, who is the first accused and the first petitioner in the month of April 2010 for selling her house site situated at S.No.59/2, Chettikulam Village, Madurai North Taluk. The sale price was fixed as Rs.4,10,000/- (Rupees Four Lakhs Ten Thousand only) and the second respondent demanded the said amount urgently for her daughter's marriage and thereby, she executed a deed of power of attorney in favour of the second petitioner on 31.05.2010. On the same day, the petitioners have paid the sale consideration of Rs.4,10,000/- (Rupees Four Lakhs Ten Thousand only) to the second respondent in cash and the second respondent issued a receipt for the said amount. Thereafter, the petitioners have sold the said property to one



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A.Nagarajan, who is the accused No.4 by way of a sale deed dated 17.06.2010. Thereafter, the second respondent without any reason demanded more money from the second petitioner and he refused to give the money, since he has already settled the sale consideration. Thereafter, the second respondent, in order to wreck vengeance, lodged a false complaint on 09.11.2011 against the petitioners and others, as if she had deposited the title deeds for getting loan from the petitioners, but the petitioners have cheated her and created false documents. The first respondent has also mechanically registered a case in Crime No.2 of 2012 against the petitioners and other two persons for the offences punishable under Sections 120(B), 406 and 420 of IPC. The second respondent, after receipt of the sale consideration, has executed the deed of power of attorney and based on the same, the petitioners have sold the property to the said Nagarajan. Hence, the charge sheet laid against the petitioners is liable to be quashed.

3. No counter is filed by the respondents.



4. The learned counsel appearing for the petitioners submits that the second respondent approached the petitioners to sell her property and thereby, the petitioners have obtained the deed of power of attorney in their favour and paid the sale consideration of Rs.4,10,000/- (Rupees Four Lakhs Ten Thousand only). Thereafter, the property was sold to the fourth accused. While so, the second respondent demanded more money from the petitioners and the petitioners have refused to give the same, due to which, the second respondent has lodged a false complaint before the first respondent. The first respondent, without enquiring the matter properly, has registered a case against the petitioners. In fact, after receipt of sale consideration, the second respondent had executed the power of attorney deed. Therefore, he prays for quashing of C.C.No.587 of 2019 filed against the petitioners.

5. The learned Government Advocate (Criminal Side) appearing for the first respondent submits that the defacto complainant approached the petitioners for obtaining loan for her daughter's marriage. She deposited title deeds, but the petitioners obtained power of attorney deed and thereafter, sold the property. There was no sale deed executed by the



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second respondent. The petitioners have cheated the second respondent and thereby, she gave a complaint before the first respondent, basing on which, a case has been registered in Crime No.2 of 2012 and thereafter, the investigation was completed and the final report was filed. The same was taken on file in C.C.No.587 of 2019 by the learned Judicial Magistrate No.1, Madurai.

6. Heard the learned counsel appearing for the petitioner and the learned Government Advocate (criminal side) appearing for the second respondent.

7. According to the second respondent, she has received a sum of Rs.2,00,000/- (Rupees Two Lakhs only) and she deposited title deeds for the loan obtained by her for her daughter's marriage. But, according to the petitioners, she executed a power of attorney to sell her property and on the same day, she received a sum of Rs.4,10,000/- (Rupees Four Lakhs Ten Thousand only) from the petitioners and to that effect, she has issued a receipt. According to the final report and the charge sheet, the first accused introduced the other accused (i.e.,) A2 and A3 and they



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obtained power deed and then, sold the property to the accused No.4.

Whether the second respondent executed the documents with an intention to sell the property or not is a matter of trial and now, without examining the witnesses, this Court cannot decide the same. The offences also are serious in nature and need elaborate trial. But it is an admitted fact that on the date of execution of power of attorney, the sale was not taken place. The issue with regard to the execution of power of attorney and the sale receipt have to be decided by the trial Court, after elaborate trial. At this stage, this Court cannot go into the veracity of the documents and the statements recorded by the prosecution.

8. The learned counsel appearing for the petitioners relied upon the judgment of the Hon'ble Supreme Court of India in the case of ***Mitesh Kumar J.Sha vs. The State of Karnataka and others*** in Crl.A.No.1285 of 2021 ***and MNG Bharateesh Reddy vs. Ramesh Ranganathan and another*** in Crl.A.No.1273 of 2022.

9. The judgment relied upon by the petitioners will not be applicable to the present case, since in the present case, there are *prima*



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facie materials available against the petitioners. Therefore, as discussed *supra*, there are no sufficient grounds to quash the charge sheet as against the petitioners and in view of the guidelines issued by the Hon'ble Supreme Court of India in the case of *Neeharika Infrastructure Pvt Ltd vs. State of Maharastra and Others reported in 2021 SCC Online SC 315*, this Court is declined to allow this petition.

10. In view of the above, this Criminal Original Petition is dismissed. Connected miscellaneous petition is closed.

04.08.2023

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
ssb

To

1. The Inspector of Police,
District Crime Branch,
Madurai District.
2. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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P. DHANABAL,J.

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