



Crl. O.P. (MD).No.2010 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Pronounce on : 10.11.2023

(Orders reserved on 20.09.2023)

CORAM:

THE HON'BLE MR.JUSTICE P. DHANABAL

Crl. O.P. (MD).No.2010 of 2020

and

Crl.M.P. (MD).Nos.1014, 1016 and 2464 of 2020

- 1.Raju
- 2.Sriram
- 3.Mahalakshmi
- 4.Ananthakrishnan
- 5.Bharati
- 6.Mala

...Petitioners.

Vs.

- 1.State rep by
Inspector of Police,
Land Grabbing Cell
Dindugal.

- 2.K.Arumugam
- 3.Jakir Hussain

...Respondents.

Prayer:Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to call for the records pertaining to C.C.No.14 of 2017 pending on the file of the Special Court for Exclusive Trial of Land



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Grabbing Cases, Madurai, and quash the same against these petitioners.

For Petitioners : Mr.P.Solomon Francis

For R1 : Mr.R.M.Anbunithi
Addl. Public Prosecutor

For R2 & R3 : Mr.T.Lenin Kumar

ORDER

This Criminal Original Petition Crl. O.P. (MD).No.2010 of 2020 has been filed to call for the records pertaining to C.C.No.14 of 2017 pending on the file of the Special Court for Exclusive Trial of Land Grabbing Cases, Madurai and quash the same as against the petitioners.

2. According to the petitioners, they were arrayed as Accused Nos.1 to 6 in the final report filed by the 1st Respondent. Based on the complaint given by the 2nd and 3rd Respondents, the 1st Respondent has registered an FIR in Crime No.48 of 2015 for the offences punishable under Sections 120-B, 406, 419, 420, 465, 468, 471, 448, 294-B and 506 (I) of IPC. Thereafter, the 1st Respondent investigated the case and filed a final report as against the accused for the above said offences.



3.1. The case of the Petitioners is that the land measuring about 4,800 sq.ft. in plot Nos.9 and 10 in Old Survey No.44, New T.S.No.30 was purchased by one Ramamani, wife of Chandramohan through a sale deed dated 21.08.1987 in Doc.No.664 of 1987 before the Sub-Registrar, Kodaikanal. Thereafter the said Ramamani has executed various power of attorney deeds and sale agreements. Lastly, she said to have executed sale deed in favour of the de-facto complainant, viz., Arumugam and Zakir Hussain through her power agent namely Rengarajan by way of a sale deed dated 27.09.2010.

3.2. In order to cheat the Ramamani, the first accused herein through the 7th accused viz., T.R.Janardhanan had forged and executed a power of attorney deed on 04.01.1992 before the Sub-Registrar, Central Madras, in Doc.No.646 of 1992. Under the guise of the above said document the sale deed was executed in favour of 2nd and 4th accused through 7th accused in respect of 11 cents by changing the survey Nos. as 31 instead of 30, this sale deed was executed. Thereafter the said 11 cents was settled by A2 and A4 through settlement deed in favour of their wives viz., A3 and A5. Thereafter they have executed rectification deed rectifying as survey No.30 instead of



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3.3. The accused waited for 19 years to carry out the rectification deed without the presence of Ramamani or T.C.Janardhanan. Therefore, all the accused have conspired together to cheat the de-facto complainant in respect of property. When the de-facto complainant confronted the accused at Sub-Registrar Office at Kodaikanal all the accused were threatened and verbally abused the de-facto complainant and thereby they gave a complaint and registered the FIR and thereafter filed a final report.

4. In fact, the Petitioner Nos.1,2 & 4 being father and sons, were engaged in real estate activities and hold vast extent of properties in Kodaikanal in Old Survey No.44, New T.S.Nos.30 and 31. One Ramamani wife Chandramohan had approached the 1st Petitioner namely Raju for sale of a property to an extent of 11 cetns in old survey No.44 of Kodaikanal Town through a person name T.C.Janardhanan who is A7 herein. As the Petitioner Nos.1,2 & 4 had purchased the land abetting the land owned by Ramamani, they expressed their willingness to purchase the 7 cents pursuant to which Ramamani had executed a power of attorney deed appointing the said Janardhanan as the power agent. The said power deed



was executed before the Sub-Registrar Office, Chennai. Thereafter based on power deed a sale deed was executed by T.C.Janardhanan in favour of the 2nd Petitioner and the 4th Petitioner through a sale deed dated 13.09.1992. The sale consideration was paid to Ramamani by cheque. In the year 2009 a settlement deed was executed by Petitioner Nos.2,4 & 6 in favour of Petitioner Nos.1,3 & 5 with regard to the various properties including this disputed property.

5. These Petitioners approached the Revenue Authorities for transfer of patta for that properties and they faced some hurdles as to the old survey and new survey numbers, as a result of which on 17.06.2010, the Village Administrative Officer, Kodaikanal had issued a co-relation certificate stating that Old Survey No.44 is co-related in ward C block 10 in T.S.Nos. 28,29,30,31,32 & 33. Due to that reason, patta to a large extent of properties owned by the petitioner were not mutated, thereafter the rectification deed was also executed with regard to Old Survey No.44. While the facts being so, these petitioners came to know that Ramamani had once again fraudulently executed sale agreement in favour of one Paramasivam dated 21.09.2010 and immediately the petitioners file a suit against Ramamani for



injunction and declaration of cancellation of agreement and power of attorney deeds. Further these petitioners also filed another suit as against the de-facto complainant namely K.Arumugam and the Revenue Officials before the District Munsif Court, Kodaikanal and the same is pending for Trial. During the pendency of the suit, the said Ramamani through her power agent executed a sale deed in favour of the de-facto complainant. These petitioners have lodged various complaints against the de-facto complainant and others and two of such complaints culminating into FIRs and the same are still pending. On the other hand, the de-facto complainant influenced the Respondents to register a case against the Petitioners, therefore, the pending case as against these Petitioners, is abuse of process of law and liable to be quashed.

6. No counter was filed by the Respondents.

7. The Learned Counsel appearing for the Petitioners would contend that based on the complaint given by the Respondent Nos.2 & 3, the 1st Respondent had registered a case in Crime No.48 of 2015 for the offences punishable under Sections 120-B, 406, 419, 420, 465, 468, 471, 448, 294-B



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and 506 (I) of IPC. Based on the said complaints, the 1st Respondent has filed a final report without proper investigation and the same was taken on file before the Special Court for Exclusive Trial of Land Grabbing Cases, Madurai in CC.No.14 of 2017. The Petitioners have purchased the properties for valuable consideration through sale deed much prior to the sale by the de-facto complainant. Already these petitioners have given a complaint as against the de-facto complainant and others but the Police have not taken any action so far. Thereafter in order to harass the Petitioners, the present complaint has been lodged and without any proper investigation the 1st Respondent has filed a Final Report and the same was taken on file by the Special Court. Therefore, the pending CC.No.14 of 2017 is liable to be quashed. These Petitioners purchased the property for valuable consideration in the year 2010 and now after a long gap and huge delay, they have registered the FIR. Already, these petitioners have filed a civil suit as against the Ramamani and thereafter they also filed the Civil Suit as against the de-facto complainant and the Revenue Officials and the same is also pending before the District Munsif Court, Kodaikanal. Therefore, in order to give criminal colour to the civil dispute, this complaint has been lodged and the same is abuse of process of law and in order to prevent the



abuse of process of law, the pending CC No.14 of 2017 is liable to be quashed.

8. The Learned Counsel appearing for the Private Respondents would contend that the property originally belonged to one Ramamani and these petitioners have created the forged documents and created power deed in the favour of A7. Pursuant to creation of forged power deed, they created sale deed in favour of A1. The A1 forged the power deed in favour of A7 in turn A7 executed sale deeds in favour of A2 and A4. In turn the A2 and A4 settled the properties to A3 and A5, therefore all the accused conspired together and created forged documents. The de-facto complainant has purchased the property from the said Ramamani and thereafter he came to know about the forged documents, thereafter he gave a complaint before the 1st Respondent, then the 1st Respondent registered a case and after investigation, he file a final report. Since there are *prima-facie* evidences available as against these Petitioners, the 1st Respondent has filed a final report and the Trial Court also had taken cognizance as against the Petitioners. Therefore, these Petitioners have to face the Trial and the offences are grave in nature and all the offences borne out of records,



therefore, at this stage without any elaborate trial the case of the Petitioners cannot be decided, therefore, the Petition is liable to be dismissed.

9. The Learned Government Advocate Criminal Side appearing for the 1st Respondent would contend that based on the complaint given by the de-facto complainant, the 1st Respondent has registered an FIR in Crime No. 48 of 2015 for the offences punishable under Sections 120-B, 406, 419, 420, 465, 468, 471, 448, 294-B and 506 (I) of IPC. Thereafter, the 1st Respondent conducted investigation and as per the investigation report, there are *prima-facie* evidences available to proceed with the case as against these Petitioners and thereby they filed a final report before the Trial Court. Thereafter, the Trial Court satisfying that there are *prima-facie* case available as against these Petitioners taken cognizance in CC.No.14 of 2017. Further, as the offences are grave in nature, the case of the Petitioners have to be decided by way of elaborate trial, therefore at this stage, this petition is liable to be dismissed.

10. This Court has heard both sides and perused all the available materials on record.



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11. The contention of the Petitioners is that they have purchased the property in the year 2010 itself for good and valuable consideration. These Petitioners owned land in Old Survey No.44, New T.S.No.30, thereby they purchased the adjacent land in the same survey number from Ramamani through her power agent Janardhanan. Thereafter the same Ramamani had created encumbrances over the property and thereby sold the property to the de-facto complainant and the de-facto complainant is the subsequent purchaser. In order to give criminal colour to the civil dispute this case is registered by the de-facto complainant.

12. The contention of the 2nd Respondent is that originally the property belonged to Ramamani and the Ramamani sold the property to the de-facto complainant. Prior to that these accused conspired together and created a forged documents in respect of the property belong to Ramamani, thereby gave the complaint and thereafter the police have also registered the FIR and then investigated the case and filed a final report. On perusal of final report filed by the 1st Respondent it reveals that there are some *prima-facie* materials available to proceed with the case, as against these



petitioners. Thereby the Trial Court had also taken cognizance in CC.No.14 of 2107. As far as the allegations made against the Petitioners are concerned, they are very serious in nature and the alleged offences are borne out of the records and thereby this Court cannot decide the veracity of the statements and records collected during the investigation and it requires elaborate trial. Both Parties are claiming rights over the properties and already the civil cases are also pending before the District Munsif Court, Kodaikanal and thereby the disputes of the Parties cannot be decided at this stage and it needs elaborate trial. Therefore, the Petitioners have to face the trial before the Trial Court, and the Petitioners are set at liberty to agitate the grounds raised by them before this Court as defence before the Trial Court and the Trial Court has to decide the cases on own merits and in accordance with law. The contention raised by both the Parties require elaborate Trial and thereby it is not appropriate to allow this application at this stage.

13. The learned counsel appearing for the petitioners has relied upon the following judgments:

1.Thermax Limited and others Vs.K.M.Johny and others reported in (2011) 13 SCC 412.

2.Kishan Singh (Dead) Through LRs. Vs. Gurpal Singh and others



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reported in (2010) 8 SCC 775.

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SCC Online SC 923.

4.Rugmini Ammal (Dead) by LRs. Vs.V.Narayana Reddiar and others
reported in (2007) 12 SCC 611.

5.Shanmugam and others Vs.Inspector of Police, Ariyalur Police
Station, Ariyalur and others reported in (2019) 3 MLJ (Crl) 339.

On careful perusal of the above said judgments, this Court of the view that
the said judgements will not be applicable to the present facts of the case.
Because in this case, there are prima facie material available as against the
petitioners to proceed with the case further and this case needs elaborate
trial.

14. In view of the above said discussions, this Court is of the opinion
that this Petition has no merits and deserves dismissal. Accordingly this
Petition stands dismissed. Connected Miscellaneous Petitions are closed.

10.11.2023

Index : Yes/No.
Speaking : Yes/No.
NCC : Yes/No.
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12/14



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Copy to:

1. The Special Judge for Exclusive Trial,
Land Grabbing Cases,
Madurai.
2. The Inspector of Police,
Inspector of Police,
Land Grabbing Cell
Dindugal.
3. The Public Prosecutor,
High Court,
Madras.



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P. DHANABAL,J

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Pre Delivery Order in

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