



Crl.O.P.(MD)No.5190 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 26.07.2023

CORAM

THE HON'BLE MR.JUSTICE P.DHANABAL

Crl.O.P.(MD)No.5190 of 2020

1.Jaiganesh

2.Thangapandi

... Petitioners

Vs.

1.State Represented by
The Inspector of Police,
Tirunelveli City, CCB,
Tirunelveli District.
(Crime No.7 of 2013)

2.Somasudnaram

... Respondents

PRAYER : Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to call for the records in C.C.No.74 of 2020 on the file of the learned Judicial Magistrate Court No.1, Tirunelveli and to quash the same as against the petitioners/Accused Nos.5 and 6.

For Petitioners : Mr.V.Kannan

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



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For R2

: Mr.N.Vijayarajan

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ORDER

This Criminal Original Petition has been filed to quash the proceedings in C.C.No.74 of 2020 on the file of the learned Judicial Magistrate Court No.1, Tirunelveli and to quash the same as against the petitioners/Accused Nos.5 and 6.

2.According to the petitioners, the defacto complainant was lodged complaint alleging that land measuring 67 cents in S.No.6/1 and 3 cents in S.No.5A of Kulavanigarpuram village, Palayamkottai Taluk, Tirunelveli District, originally belonged to one Subbiah Thevar through sale deeds registered as document No.8082 of 1957 and No.4797 of 1967 respectively. After the demise of the said Subbiah on 10.03.1997 and death of his wife Vellaiammal on 08.02.1998, the defacto complainant, being their son, was the absolute owner of the said property and he was enjoying the property. A1, one Muthu, fabricated a false document, namely power of attorney, in favour of A2 and A3, namely Sankar and



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Shanmugasundaram and it has been registered as document No.1100 of 2010 dated 02.08.2010. In turn, A2 and A3 executed sale deeds in favour of A4, A5, A6 and A7 through registered document Nos.5581 of 2010 and 5582 of 2010 before the Sub Registrar, Melapalayam on 06.08.2010. All the accused entered into a criminal conspiracy to grab the land, knowing well that they are executing false documents without having any right or interest over the said property. Upon complaint of the second respondent, the first respondent registered a case in Crime No.7 of 2013 for the offence under Sections 465, 467, 468, 471 and 420 IPC. After completion of investigation, the first respondent filed final report and the same has been taken cognizance in C.C.No.74 of 2020 by the learned Judicial Magistrate No.I, Tirunelveli for the offence under Sections 120(B), 420, 465, 467, 468, 471 IPC. In fact, charge sheet did not attract all the penal provisions and the petitioners are bonofide purchasers and they never committed any offence as alleged in the complaint. Therefore, charge sheet is liable to be quashed.

3.The learned counsel appearing for the petitioner would contend that the second respondent has given complaint before the first



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respondent and based on the false complaint, the first respondent registered a case in Cr.No.74 of 2020. Thereafter, first respondent filed final report and none of the offences made out as per final report and the petitioners herein are only bonofide purchasers.

4.The learned counsel appearing for the second respondent would contend that the petitioners along with other accused, conspired and created forged documents. The first accused in this case colluded with the other accused and created forged power deed and thereafter, based on the power deed, the petitioners, after knowing very well that the said documents are forged, purchased the land. Therefore, it is a matter for trial and the petitioners have to face the trial.

5.The learned Government Advocate(Crl.side) appearing for the first respondent would contend that based on the complaint given by the second respondent, the first respondent registered a case and elaborately investigated the case. On investigation, since prima facie case made out, the first respondent filed final report and the learned Magistrate has taken cognizance for the offence under Sections 120(B), 420, 465, 467, 468,



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471 IPC in C.C.No.74 of 2020. At this stage, this Court need not invoke its inherent power under Section 482 Cr.P.C.

6.Heard both sides and perused the materials available in the records.

7.On perusal of records shows that the second respondent has lodged a complaint before the first respondent and based on the same, the first respondent registered FIR in Cr.No.7 of 2013 for the offence under Sections 465, 467, 468, 471 and 420 IPC. After elaborate investigation, the first respondent filed final report and as per final report, there are prima facie material available to proceed with the case and therefore, the learned Magistrate has taken cognizance in C.C.No.74 of 2020. Further, the alleged offences are grave in nature. As per guidelines given by the Hon'ble Supreme Court of India in a case of *M/s Neeharika Infrastructure Pvt. Ltd Vs. State of Maharashtra and others*, this Court need not interfere with the case at this stage. Hence, this petition is liable to be dismissed and accordingly, this criminal original petition is dismissed. Since the case is pending from the year 2020, it is appropriate



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to direct the trial Court to expedite the trial proceedings. Therefore, the learned Judicial Magistrate Court No.1, Tiruneveli is directed to complete the trial in C.C.No.74 of 2020 as early as possible, preferably, within a period of three months from the date of receipt of a copy of this order.

26.07.2023

NCC	:	Yes / No
Index	:	Yes / No
Internet	:	Yes / No
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To

- 1.The Judicial Magistrate Court No.1, Tirunelveli
- 2.The Inspector of Police,
Tirunelveli City, CCB,
Tirunelveli District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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P. DHANABAL,J.

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