



Crl.O.P(MD).Nos.15862, 15877 and 14965 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

Dated : 16.03.2023

CORAM:

THE HONOURABLE MRS. JUSTICE R.THARANI

Crl.O.P(MD).No.15862, 15877 and 14965 of 2020

and

Crl.M.P.(MD)Nos.7773, 7774, 7793 and 7795 of 2021

Crl.O.P.(MD)No.15862 of 2020:

M.Muthaiya

...Petitioner

Vs

1.State represented by,
Inspector of Police,
Perungudi Police Station,
Madurai.
Crime No.220 of 2014

2.P.Sangara Narayanar

...Respondents

PRAYER: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, praying this Court to call for the records in C.C.No.528 of 2016 on the file of the learned Judicial Magistrate No.VI, Madurai and quash the same as illegal in respect of petitioner/accused No.1 alone.

For Petitioner	: Mr.P.Santhana Krishnan
For 1 st Respondent	: Mr.M.Sakthi Kumar
	Government Advocate (Crl. Side)
For 2 nd Respondent	: Mr.C.Vakeeswaran



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Crl.O.P.(MD)No.15877 of 2020:

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1.K.Karthic

2.V.Chithiraikannan

...Petitioners

Vs

1.State represented by,
Inspector of Police,
Perungudi Police Station,
Madurai.
Crime No.220 of 2014

2.P.Sangara Narayanar

...Respondents

PRAYER: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, praying this Court to call for the records in C.C.No.528 of 2016 on the file of the learned Judicial Magistrate No.VI, Madurai and quash the same as illegal in respect of petitioner/accused No.6 and 7 alone.

For Petitioners	: Mr.Devaraj Mahes
For 1 st Respondent	: Mr.M.Sakthi Kumar Government Advocate (Crl. Side)
For 2 nd Respondent	: Mr.C.Vakeeswaran

Crl.O.P.(MD)No.14965 of 2020:

1.M.Kanthasamy

2.R.Ilango

...Petitioners

Vs

1.State represented by,
Inspector of Police,
Perungudi Police Station,
Madurai.
Crime No.220 of 2014



Crl.O.P(MD).Nos.15862, 15877 and 14965 of 2020

2.P.Sangara Narayanar

...Respondents

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PRAYER: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, praying this Court to call for the records in C.C.No.528 of 2016 on the file of the learned Judicial Magistrate No.VI, Madurai and quash the same as illegal in respect of petitioner/accused No.2 and 3 alone.

For Petitioner	: Mr.K.Neelamegam
For 1 st Respondent	: Mr.M.Sakthi Kumar Government Advocate (Crl. Side)
For 2 nd Respondent	: Mr.C.Vakeeswaran

COMMON ORDER

These petitions filed to quash the proceedings in C.C.No.528 of 2016 on the file of the learned Judicial Magistrate No.VI, Madurai.

2.The allegation against the petitioners is that the first accused is the brother-in-law of the defacto complainant. With an intention to cheat the complainant, the petitioners approached the complainant and they told him that the accused 2 to 5 are his close friends and that they are going to sell the property and that the accused 2 to 4 together gave a statement that there was no encumbrance in the property. A1, A5 to A8 ascertained the above words. The defacto complainant agreed to purchase the land for a sum of Rs. 11,80,000/- and on 22.11.2012, he paid Rs.3,66,800/- to A2 and A3 in the presence of A1, A5 to A8. The sale deed was registered on 23.11.2012 and on



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that date, balance of Rs.4,03,200/- was paid to A2 and A3. A6 and A7 have signed the document as witnesses. Since the defacto complainant was not having sufficient money to purchase the property of A4 and A5, a sale agreement was prepared on that date and on 29.07.2013, a sale deed was registered after the payment of the balance amount. Subsequently, the defacto complainant approached the Tahsildar office for transferring the patta and he came to know that the name of the owners are different and later he came to know that a civil suit is pending. A1 promised the defacto complainant that the amount would be returned to him on condition that the defacto complainant should execute a settlement deed in favour of his wife, who is the sister of A1. On the request made by A1, the defacto complainant executed a settlement deed in favour of his wife on 13.02.2014 but A1 did not come forward to recover the amount from A2 to A5 and hence, the defacto complainant revoked the settlement deed.

3.The defacto complainant came to know that the property originally belonged to one Rajendran and he filed a suit in O.S.No.252 of 1999 on the file of Madurai Taluk Munsif Court and the suit was decreed. A2 filed an appeal in A.S.No.97 of 2001 on the file of the Sub Court, Madurai and the appeal was dismissed. Against which, a second appeal in S.A.(MD)No.1061 of 2005 was filed before this Court and on 27.02.2011, the same was



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dismissed as withdrawn. The real owner Rajendran expired on 20.01.2012.

A1 to A8 have suppressed the facts and they sold the property to the defacto complainant with an intention to defraud him. Hence, a case was registered in Crime No.220 of 2014 on the file of the first respondent and the same was taken on file as C.C.No.528 of 2016 on the file of the learned Judicial Magistrate No.VI, Madurai.

4.On the side of the petitioner in Crl.O.P.(MD)No.15862 of 2020, it is stated that the first respondent failed to note that the complaint given by the second respondent is a false one. The learned Judicial Magistrate failed to verify the FIR and chargesheet and the connected papers before taking the case on file. The Magistrate failed to take note that A2 and A3 have purchased the disputed property from one Malaikani on 25.03.1998 and the petitioner/A1 has not played any role. The case against A1 should be closed at the first instance.

5.It is further stated that the learned Judicial Magistrate failed to note that the entire case is civil in nature and the defacto complainant ought to have moved only the civil forum. FIR was registered after the expiry of the limitation for registering a case for the cancellation of sale. The final report was filed belatedly. The defacto complainant was having previous enmity



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with A1 and his wife. Due to the pendency of the criminal case, the petitioner

A1 could not attend his regular work and prayed the entire proceedings to be quashed.

6.On the side of the petitioner in Crl.O.P.(MD)No.15877 of 2020, it is stated that the petitioners are A6 and A7 and that they have signed the sale deed only as witnesses. They have no other involvement in the offence and the learned Judicial Magistrate need not proceed with the case against A6 and A7. Only after perusing the encumbrance and previous documents, the defacto complainant has purchased the property and hence, the performance of the A6 and A7 cannot be questioned.

7.On the side of the petitioner in Crl.O.P.(MD)No.14965 of 2020, it is stated that the petitioners herein are A2 and A3 in the case and that A2 and A3 have purchased the disputed property from Malaikani on 25.03.1998 through separate sale deeds registered as Document No.9253/2012 and 5817/2013. The petitioners A2 and A3 are bonafide purchasers and that the learned Judicial Magistrate need not proceed the case against the petitioners.

8.On the side of the defacto complainant, it is stated that all the accused persons conspired together and they cheated the defacto complainant



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by giving false promises that there was no encumbrance in the property and all of them are having specific overt act in the case and there is no necessity to quash the criminal proceedings.

9.On the side of the prosecution, it is stated that the case was transferred from the file of the learned Judicial Magistrate No.VI, Madurai to the file of the learned Judicial Magistrate, Thirumangalam and the case was re-numbered as C.C.No.208 of 2021. Seven witnesses were already examined. A2 and A3 are absconding and absconding accused cannot file a petition under Section 482 of Cr.P.C., for quashing the case and prayed the petitions to be dismissed.

10.It is seen that a case in Crime No.220 of 2014 was registered against the petitioners. The petitioner in Crl.O.P.(MD)No.15862 of 2020 is A1, the petitioners in Crl.O.P.(MD)No.15877 of 2020 are A6 and A7 and the petitioners in Crl.O.P.(MD)No.14965 of 2020 are A2 and A3 in the case.

11.On the side of the petitioner, it is stated that the case is civil in nature and the criminal Court need not proceed with the case. Already seven witnesses were examined and already the case was transferred and was taken on file as C.C.No.208 of 2021 on the file of the learned Judicial Magistrate,



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R. THARANI,J.

Mrn

Thirumangalam. Totally 12 names are mentioned as witnesses and out of which, 7 witnesses were already examined. Whether the dispute is purely civil in nature or a criminal offence is made out can be decided by the trial Court after the completion of the trial.

12.In the above circumstances, there is no necessity to quash the proceedings. Hence, these Criminal Original Petition are all dismissed. Consequently, connected miscellaneous petitions are closed.

16.03.2023

NCC : Yes/No

Internet : Yes/No

Index : Yes/No

Mrn

To

1.The Judicial Magistrate No.VI, Madurai.

2.The Inspector of Police,
Perungudi Police Station,
Madurai.

2.The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

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