



WEB COPY



Crl.O.P.(MD)No.14789 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 15/11/2023

CORAM

The Hon'ble Mr.Justice **G.ILANGOVAN**

Crl.OP(MD)No.14789 of 2023

and

Crl.MP(MD)Nos.11697 and 11698 of 2023

1.A.Muthuramalingam

2.P.Raveendiran

3.M.Kasinathan

: Petitioners/A2 to A4

Vs.

1.The State rep. by

The Inspector of Police,

District Crime Branch,

Madurai.

(Crime No.23 of 2021)

: R1/Complainant

2.G.Seenivasagan

: R2/De-facto Complainant

PRAYER:-Criminal Original Petition has been filed under section 482 of the Criminal Procedure Code, to call for the records pertaining to CC No.1625 of 2022 on the file of the Judicial Magistrate No.1, Madurai and quash the same and pass such further or other orders.

For Petitioners : Mr.T.Balakrishnan

For 1st Respondent : Mr.M.Vaikkam Karunanithi
Government Advocate
(Criminal side)

For 2nd Respondent : Mr.R.Murugappan



Crl.O.P.(MD)No.14789 of 2023

O R D E R

This criminal original petition has been filed seeking quashment of the case in CC No.1625 of 2022 on the file of the Judicial Magistrate No.1, Madurai.

2.The case of the prosecution in brief:-

The de-facto complainant lodged a complaint stating that he is an Engineer by profession. Later started Real Estate Business also. One Sasikumar informed him that he is also in the very same profession and business. If the de-facto complainant deposits money, he can earn huge profit. Believing his words, they purchased lands jointly and separately also. Similarly one Selvakumar also purchased adjacent property. The total extent is 6-3/4 Acres. They developed the same by plotting out after obtaining proper approval from the District Town Planning Committee. They were selling individual plots. But 95 plots could not be sold. So they jointly decided to sell all the entire extent to meet out their financial difficulties.

3.One V.K.Rajan was introduced by his friend namely Kathirvel. He promised to make arrangement for selling the property for huge profit. Believing the words, they executed a General Power of Attorney, on 20/08/2020 in



WEB COPY



Crl.O.P.(MD)No.14789 of 2023

favour of V.K.Rajan. On the very same day, they also executed the sale deed. The total amount fixed was Rs.62,85,688/-. Advance amount was Rs.2,00,000/-. It was agreed that the balance amount must be paid within a year. He was also promised to pay Rs.4,00,000/- within 10 days. Later he paid Rs.5,50,000/- to Sreenivasagan. In spite of repeated request, V.K.Rajan failed to respond properly. Doubting his conduct, they obtained encumbrance certificate from the Sub Registrar Office, Kallikudi. At that time, they came to know that V.K.Rajan sold the property to one Raveendiran and Kasinathan without their knowledge. When that was enquired by the de-facto complainant, V.K.Rajan promised to settle the money after Deepavali. But later failed. They came to know that they were cheated. On the basis of the complaint given by the de-facto complainant, a case was registered in Crime No.23 of 2021 for the offences under sections 406, 420, 294(b), 120B and 506(i) IPC. After completing the investigation process, final report was filed and it was taken cognizance in CC No.1625 of 2022 by the Judicial Magistrate No.I, Madurai.

4. Seeking quashment of the same, A2 to A4 are before this court on the ground that they are *bona-fide* purchasers for valid consideration without notice; the



disputed is only between the de-fcto complainant and A1
V.K.Rajan.

5.Heard both sides.

6.The learned counsel appearing for the petitioners would submit that these petitioners are noway involved in the issue between the de-facto complainant and A1; They are *bona-fide* purchasers for valid consideration without notice; They have also handed over the sale consideration to A1; Because of the difference of opinion between A1 and A2, a false complaint has been given. More-over, it is also stated that the second respondent filed a petition to cancel the sale deed executed in favour of the petitioners, but the District Registrar rejected the prayer and directed him to work out his civil remedy. Against which, appeal was preferred before the Director General of Registration, Madurai. That came to be rejected, by order, dated 28/03/2022. Thereafter, the second respondent filed suit in O.S No.357 of 2022 before the District Court, Madurai, on 08/07/2022 seeking various reliefs. Thereafter only, the present complaint was filed.



WEB COPY



Crl.O.P.(MD)No.14789 of 2023

7.Per contra, the learned Government Advocate (Criminal side) would submit that the trial commenced and PW1 was examined on the side of the prosecution and 5 documents were marked; No cross examination was made by the petitioners so far; Now the case has been posted for further cross examination of the witnesses.

8.A report from the trial court namely the Judicial Magistrate No.1, Madurai also indicates the statement of the learned Government Advocate (Criminal side).

9.No doubt that it is an issue between A1 and the de-facto complainant. But reading of the complaint indicates that without the parent documents, registration was effected by producing fake and false Life Certificate. So, the allegation shows that proper Life Certificate was not obtained by A1 before executing the sale deed in favour of these petitioners. Even though, on the basis of the General Power of Attorney, these petitioners alleged to have purchased the property from A1. Whether they are *bona-fide* purchasers for valid consideration without notice, cannot be a matter for consideration by exercising the power under section 482 Cr.P.C. The petitioners ought to have made thorough enquiry as to the ownership of the property with the de-



WEB COPY



Crl.O.P.(MD)No.14789 of 2023

facto complainant as well as the enforceability of the Power of Attorney. More-over, the execution of the sale agreement, Joint Power of Attorney on the same day for the purpose of selling the property or purchasing the property or dealing with the property is highly deprecated by the Hon'ble Supreme Court in many judgements.

10.Whether there was any conspiracy between these petitioners and A1 in creating the documents namely Life Certificate and purchase can be found out only during the course of trial process.

11.It is also seen that that the original documents are available in the hands of the de-facto complainant. Without the original documents, the petitioners alleged to have purchased the property from A1. So this creates doubt over the genuineness of the petitioners claim that they are the *bona fide* purchasers for valid consideration without notice.

12.When the offence under section 120B IPC alleged, it is nothing, but proper trial process be taken to its logical end. I find no reason to entertain this petition.



Crl.O.P.(MD)No.14789 of 2023

13.In the result, this criminal original petition is **dismissed**. Consequently connected Miscellaneous Petitions are closed.

15/11/2023

Index:Yes/No

Internet:Yes/No

er

To,

1.The Judicial Magistrate No.1,
Madurai

2.The Inspector of Police,
District Crime Branch,
Madurai.

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



WEB COPY



CrI.O.P.(MD)No.14789 of 2023

G.ILANGO VAN, J

er

CrI.OP (MD) No.14789 of 2023

15/11/2023