



Crl.O.P(MD).No.18897 of 2019

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 04.07.2023

CORAM:

THE HONOURABLE MR. JUSTICE P. DHANABAL

Crl.O.P(MD).No.18897 of 2019

and

Crl.M.P.(MD)Nos.11091 and 11093 of 2019

1.C.Thankaraja

2.T.Ragavan

...Petitioners/Accused Nos.13 and 14

Vs

1.The Inspector of Police,
District Crime Branch,
Kanyakumari District.
(Crime No.2 of 2012)

2.J.Cyril Selvaraj (Died)

3.C.Margret

4.John Leo

5.Lesly Josh

...Respondents

PRAYER: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, praying this Court to call for the records relating to the impugned chargesheet in C.C.No.1024 of 2019 pending on the file of the learned Special Court for Land Grabbing Cases, Tirunelveli and to quash the same as against the petitioners herein.

For Petitioner

: Mr.B.Vinoth Kumar

For 1st Respondent

: Mr.M.Sakthi Kumar

Government Advocate (Crl. Side)

For 2nd Respondent

: Mr.S.Karthick Rajan



CrI.O.P(MD).No.18897 of 2019

WEB COPY

ORDER

This petition is filed to quash the impugned charge sheet in C.C.No.1024 of 2019 on the file of the Special Court for Land Grabbing Cases, Tirunelveli.

2.According to the petitioners, the second respondent gave a complaint before the first respondent and FIR was registered and then after investigation, the first respondent has filed a final report in C.C.No.1024 of 2019 for the offences under Sections 120(B), 420, 465, 468, 471 of IPC r/w. 34 of IPC.

3.The allegations in the complaint are that the properties in Survey No. 537/6 and 537/4 admeasuring 33 cents was originally owned by one Palavesa Muthu Nadar. The defaco complainant and his family members have purchased the properties from the said Palavesa Muthu Nadar in the year 1995. After purchasing the properties, the defacto complainant was doing agriculture works till 1999 and thereafter, the suit property was rented to run Wine Shop and Snacks shop. While being so, in the year 2019, all the accused created three forged power deeds and seven forged sale deeds so as to illegally grab the properties. Further one Rajammal/A15 had forged a power deed in



Crl.O.P(MD).No.18897 of 2019

favour of the first petitioner herein and on the strength of the power deed, the first petitioner herein sold the properties in favour of one Ragavan, who is the second respondent herein/A14. Hence, the defacto complainant lodged a complaint on 08.01.2012 and the same was registered in Crime No.2 of 2012 under Sections 420, 467, 468 and 471 of IPC. After the completion of the investigation, the first respondent filed a charge sheet and the same was taken on file in C.C.No.1024 of 2019 by the Special Court for Land Grabbing Cases, Tirunelveli.

4.It is further stated that the petitioners voluntarily approached the defacto complainant to verify as to whether the parted property to an extent of 3.75 cents in Survey No.537/4 belongs to the defacto complainant or the said Rajammal. Since the documents shows that the properties belonged to the defacto complainant and he is the real owner, the petitioners expressed their willingness to sort out the encumbrance of the said properties by cancelling all the documents and also cancelled the documents on 09.11.2011. The petitioners and the defacto complainant entered into compromise and executed a deed to that effect on 30.08.2013. Further once again, the petitioners have entered into compromise with the defacto complainant and another compromise deed was also executed on 06.12.2019. In the meanwhile, the defacto complainant died on 11.02.2022. Since the petitioners have cancelled



Crl.O.P(MD).No.18897 of 2019

the sale deed and entered into compromise, nothing survives for adjudication against the petitioners and thereby prayed to quash the charge sheet in C.C.No.1024 of 2019 as against the petitioners.

5.The learned counsel appearing for the private respondents 3 to 5 who are the legal heirs of the second respondent, has stated that he has no objection for compromise entered between the parties.

6.The learned Government Advocate appearing for the first respondent has represented that since the defacto complainant died, pending proceedings and other accused have also involved in the same crime, the compromise between the parties is not a ground to quash the proceedings and the petitioner may be directed to participate in the trial proceedings and submit their defence before the trial Court. As per FIR and chargesheet, *prima facie* offences are made out and thereby, the quash petition is liable to be dismissed.

7.Further the learned Government Advocate appearing for the first respondent further represented that NBW is also pending as against some of the accused.



Crl.O.P(MD).No.18897 of 2019

8.Considering the aforesaid submissions and considering that some other accused are also involved in the same crime who are all not parties to this petition and considering the gravity of the offences and no *prima facie* materials found for abuse of process of law, this Court is declined to quash the proceedings. However, considering the circumstances of the case, it is appropriate to direct the trial Court to commence the proceedings and dispose the case on merits in accordance with law as early as possible preferably within a period of six months from the date of receipt of a copy of this order. As far as pending NBW is concerned, it is for the first respondent to secure the accused in accordance with law and proceed with the case further before the trial Court. The petitioners also at liberty to approach the trial Court and raise all the grounds as their defence.

9.The learned counsel appearing for the petitioner has brought to the notice of this Court, that now the case is pending for framing the charges before the learned Judicial Magistrate No.I, Nagercoil, since the G.O., regarding land grabbing cases was quashed by the Hon'ble High Court and confirmed by the Hon'ble Supreme Court. If so the petitioners are at liberty to approach the trial Court by filing proper application for discharge in accordance with law if require and the trial Court also shall entertain such application if otherwise in order and pass orders in accordance with law



Crl.O.P(MD).No.18897 of 2019

without influencing the observation made by this Court.

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10. With the above observation, this Criminal Original Petition is dismissed. No Costs. Consequently, connected miscellaneous petitions are closed.

04.07.2023

NCC : Yes/No
Internet : Yes/No
Index : Yes/No
Mrn



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CrI.O.P(MD).No.18897 of 2019

To

- 1.The Judge, Special Cases for Land Grabbing Cases, Tirunelveli.
- 2.The Judicial Magistrate No.I, Nagercoil.
- 3.The Inspector of Police,
District Crime Branch,
Kanyakumari District.
- 4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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Crl.O.P(MD).No.18897 of 2019

P. DHANABAL,J.

Mrn

Crl.O.P(MD).No.18897 of 2019

04.07.2023