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Crl.O.P.No.17087 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :18.01.2024

CORAM :

THE HON'BLE MRS. JUSTICE T.V. THAMILSELVI

Crl.O.P.No.17087 of 2021
and
Crl.M.P.No.9353 &9355 of 2021

1.Elammal
2.B.Gnanamorthy

... Petitioners

Versus

1.The State of Tamil Nadu,
Rep. by the Inspector of Police,
Central Crime Branch -II, ALGSC _II, Team-22,
Vepery, Chennai-600 007.
Crime No.132/2012.

2.Adhi Lakshmi

... Respondents

Criminal Original Petition filed Under Section 482 of the Code of Criminal Procedure, praying to call for the records in C.C.No.19 of 2021 on the file of the Judicial Magistrate No.I,Poonamallee and quash the same.

For Petitioners : Mr.Y.Solomon

For R1 : Mr.Vinoth Kumar
Government Advocate (Crl.Side)

For R2 : Mr.R.P.Vijayakrishnan



ORDER

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The petitioner has filed this petition to quash the proceedings in C.C.No.19 of 2021 on the file of the Judicial Magistrate No.I, Poonamallee, in which the cognizance was taken for the offence punishable under Sections 120(b), 420, 465, 468, 471 of IPC.

2. The second respondent filed a complaint stating that she is the original owner of the property. She alleges that A1, Krishnamal, along with other accused individuals, created a fabricated unregistered sale deed and executed it on September 29, 1978, to grab the property. Subsequently, based on this unregistered sale deed, a gift settlement deed was executed on January 30, 2010, in favor of the petitioners and the grandchildren of A1, Krishnamal. Consequently, an FIR was lodged in Crime No. 132 of 2012. Following an investigation, a final report was filed against the third accused persons under Sections 120(b), 420, 465, 468, and 471 of the IPC.

3. Challenging the final report, Krishnamal/A1 has passed away. Now, A2 and A3 have filed this Criminal Original Petition to quash the proceedings against them. They argue that in 1978, A1 purchased the property for valid consideration, although the document was unregistered.



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Based on this, a gift deed was executed in favor of the petitioners. They assert that A1 had been enjoying the property since its purchase in 1978 and claim to be the absolute owners. They plead innocent and deny conspiring with the intention to grab the property. They contend that despite the document being unregistered, A1 paid valuable consideration and became the absolute owner of the property. Therefore, the allegation of grabbing the property with malicious intent is erroneous. They request that the proceedings be quashed.

4. The learned counsel appearing for the respondents argues that the 1978 document relied upon by the petitioners is unregistered, and they did not take steps to register the sale deed despite claiming to be bona fide purchasers. Moreover, based on the unregistered document, they executed another sale deed in favor of A2 and A3 in 2010. The counsel contends that all these years, the petitioners knew the document was unregistered and manipulated the documents with the intention to grab the property. Therefore, they are entitled to further prosecution.

5. Considering the facts and circumstances, and upon reviewing the records, it is revealed that A1 purportedly purchased the property in 1978,



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but the sale deed from that year is unregistered. Despite relying on this unregistered sale deed for all these years, the petitioners did not take steps to register the document. In 2010, based on the unregistered document, a gift deed was executed in favor of the petitioners by A1. This indicates that they did not secure the sale deed's value. It requires detailed investigation to determine whether there was an intention to grab the property. At this stage, the proceedings against them to quash the case appear not to be vexatious. Therefore, this Court declines to quash the proceedings in C.C.No.19 of 2021 on the file of the Judicial Magistrate No.I,Poonamallee.

6. Accordingly, this Criminal Original Petition is dismissed as devoid of merits. Consequently, the connected miscellaneous petitions are closed.

18.01.2024

Index : Yes/No
Speaking/Non Speaking order
Neutral Citation:Yes/No

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To

1. The Judicial Magistrate No.I,
Poonamallee.
2. The State of Tamil Nadu,
Rep. by the Inspector of Police,
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Vepery, Chennai-600 007.
Crime No.132/2012.
- 3.The Public Prosecutor,
High Court of Madras.



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T.V.THAMILSELVI, J.

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