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Crl.R.C.No.626 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.04.2024

CORAM

THE HONOURABLE MR. JUSTICE M.DHANDAPANI

Crl.R.C.No.626 of 2024

1.Girija
2.Karthik
3.Pasupathy

.. Petitioners

Vs.

1.The State Rep by
Inspector of Police EDF,
Central Crime Branch-I,
Chennai-600 007.

.. 1st Respondent/
Complainant

2.M.R.Gurumurthy

..2nd Respondent/
De-facto complainant

PRAYER: Criminal Revision Petition filed under Section 397 read with Section 401 of the Code of Criminal Procedure Code, to set side the order of the lower court in Crl.M.P.No.12441 of 2024 dated 12.03.2024 on the file of CCB-CBCID Metropolitan Magistrate Court, Egmore, Chennai.



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For Petitioners : Mr.L.Infant Dinesh

For Respondents : Mr.A.Gopinath,
Govt. Advocate (Crl.Side) for R1

: Mr.A.Balaji for R2

ORDER

This Criminal Revision Case has been filed seeking to set aside the order dated 12.03.2024 passed by the CCB-CBCID Metropolitan Magistrate Court, Egmore, Chennai in Crl.M.P.No.12441 of 2023.

2. The Petitioners herein are arrayed as 3rd, 4th & 8th accused respectively in C.C.No.3210/2023 for the alleged offences under sections 406, 420, 467, 468 r/w 34 of IPC on the file of CCB-CBCID Metropolitan Magistrate, Egmore, Chennai. It is the case of the prosecution that, on 07.05.2015, the 2nd respondent/de-facto complainant entered into a sale agreement with the 1st accused who is none other than the husband of the 1st petitioner/3rd accused with respect to the property to an extent of one acre situated in Survey No.164, TS No.14, Block No.39, Marbidas road, Velachery owned by one K.Alameluammal, for a sale consideration



of Rs.9,00,00,000/- on the basis of the power of attorney granted in favour of the 1st accused pursuant to which, the de-facto complainant transferred a sum of Rs.8,15,00,000/- to the bank account of the 2nd accused who is the daughter of the 1st accused on various dates. Alleging that the said amount was not given to the land owner of the property namely Alameluammal, even without the knowledge of the 1st accused, the power of attorney granted in his favour was cancelled and resultantly, the said Alameluammal had refused to register the sale deed in respect of the above said property. It is further alleged that the 2nd accused had executed a fake partnership deed dated 02.07.2014 in respect of the company run by her by forging the signature of the De-facto Complainant for which FIR was registered in Crime No.366 of 2019 as against the accused persons based on the complaint lodged by the de-facto complainant.

3. Learned counsel for the petitioner would submit that pending investigation in Crime No.366 of 2019, which was initiated on the same set of facts, the de-facto complainant's wife had filed a private complaint under



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section 156(3) of Cr.P.C. before the Judicial Magistrate No.5, Madurai in Crl.M.P.No.962 of 2023 stating that 1st and 6th accused came to her residence in Madurai and threatened her to withdraw the complaint for which FIR was registered in Crime No.534/2023 for the offences under Sections 294(b), 406, 506(ii) IPC as against the accused persons resulting in filing of charge sheet in C.C.No.3210 of 2023 on the file of the CCB-CBCID Metropolitan Magistrate, Egmore, Chennai. Aggrieved by the same, all the accused persons filed a quash petition in Crl.O.P.No.10885 of 2023 before the Madurai Bench of High Court and obtained interim stay. However, without considering the aforesaid fact, the court below had, vide the impugned order, dismissed the petition filed by the petitioners to quash the prosecution, which is not on proper appreciation of materials and, therefore, the same requires interference.

4. Per Contra, learned Government Advocate appearing on behalf of the 1st respondent police would submit that for the very same set of facts, a quash petition was filed before this Court in Crl.O.P.No.16755 of



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2023 seeking to quash the proceedings in C.C.No.3210 of 2023 and the same was dismissed by giving benefit to the petitioners from appearance, except on few occasions. However, the petitioners did not appear before the Court below on the said occasions, necessitating issuance of non-bailable warrant and this Court, in Crl. M.P. No.2611/2023 had recalled the said order, not being satisfied with the conduct of the petitioners. Therefore, for the very same relief on the same set of facts, by clandestine means, the petitioners had filed petition before the Madurai Bench and obtained interim orders and on the basis of the said interim orders, had gone before the court below seeking quashment, which was rightly dismissed by the court below, resulting in the present revision. There are no merits in the revision and, therefore, the same requires to be dismissed.

5. This Court gave its careful consideration to the submissions advanced by the learned counsel appearing on either side and perused the materials available on record.



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6. A perusal of the records reveal that already the petitioners along with the other accused persons filed a petition under section 482 of Cr.P.C before this Court in Crl.O.P.No.16755 of 2023 seeking to quash the proceedings in C.C.No.3210 of 2023 wherein, this Court, after adjudication, while not inclined to quash the case, but had dispensed with the personal appearance of the petitioners herein before the court below except at the time of framing of charges under Section 240 of Cr.P.C, questioning under Section 313 of Cr.P.C, on the day of passing the final Judgment vide order dated 28.07.2023 with a direction to the court below to complete the proceedings in C.C.No.3210 of 2023 within a period of 6 months from the date of receipt of a copy of the order. However, in view of the fact that the petitioners did not comply with the said order by appearing before the court below on the said days, the 2nd respondent had filed Crl.M.P.No.2611 of 2024 in Crl.O.P.No.16755 of 2023 to recall the earlier order passed in Crl.O.P.No.16755/2023 by recalling the benefit of dispensing with given by this court to the petitioners. Appreciating the fact that the petitioners had not complied with the directions of this court, this court, vide order dated 05.03.2024 had recalled the portion of the order whereby dispensing with



the personal appearance was granted.

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7. When already, on the same set of facts, quash petition filed was dismissed by this Court relegating the petitioners to face trial in C.C. No.3210 of 2023, once again, for the very same relief, this Court cannot entertain the said petition, as the court below, on carefully analysing the materials has come to a conclusion that there exists prima facie materials against the petitioners herein, who are accused and to proceed against them. Such being the case, when already this Court had directed the petitioners to undergo trial, this Court cannot once again appreciate the very same issue to give any relief to the petitioners and the petitioners are bound by the orders passed by this Court in Crl. O.P. No.16755/2023.

8. What the petitioners could not achieve through the one side, viz., quashment of the case, is sought to be achieved by the petitioners through the other side, viz., filing the discharge petition and seeking discharge. This court cannot be a party to the intellectual brilliance of the petitioners by trying to achieve the thing which was already negated by



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this Court. The court below, in unequivocal terms, has held that the petitioners could absolve themselves only by going through the rigours of trial and establishing their innocence, which was the main reason for this Court, in the earlier round of litigation in Crl. O.P. No.16755/2023, not to quash the case, this Court, on the same set of facts, but clothed with a different plea of discharge, cannot grant the very same relief to the petitioners, which would be nothing but travesty of justice. The criminal revision petition on the same set of facts is not maintainable and, therefore, this petition is liable to be dismissed.

9. Accordingly, this Court finds no merit in the present criminal revision filed by the petitioners and the same is dismissed.

03.04.2024

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To

The CCB-CBCID Metropolitan Magistrate Court,
Egmore, Chennai.



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M.DHANDAPANI, J.

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