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CRL O.P. No.13009 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 03.10.2024

CORAM

The Hon'ble Mr. Justice P.DHANABAL

CRL O.P. No.13009 of 2020

1. A. Marimuthu S/o. S.P. Avathan Chettiar
 2. Vijayarani W/o. A. Marimuthu ... Petitioners / Accused 3 and 4
- Vs.

1. The State represented by:

The Inspector of Police,
Central Crime Branch, Team-18,
Anti Land Grabbing Cell,
Vepery, Chennai-600 007.

....1st Respondent

2. P.S.R. Sathyamurthy S/o. P.S. Ranganathan 2nd Respondent /
Defacto complainant.

3. G. Leelabai W/o. Gulabchand Jain 3rd Respondent / 1st Accused
4. G. Ajith Kumar S/o. Gulabchand Jain... 4th Respondent / 2nd Accused
5. K.R. Chidambaram S/o. Karuppaiah ... 5th Respondent / 4th Accused

PRAYER :- This Criminal Original Petition has been filed under Section 482 of Criminal Procedure Code to call for the records in respect of Criminal case in C.C. No.7019 of 2018 on the file of the Metropolitan Magistrate, CCB / CBCID Court, Egmore and to quash the same.

For petitioners : Mr. N. Elayaraja
For Respondents : Ms. G.V. Kasthuri,



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Additional Public Prosecutor
[for R1]
Mr. N. Palanikumar [for R2]
Mr. R. Siva [For R3 and R4]
Mr. A.R.M. Arunachalam
[for R5]

ORDER

This Criminal original petition has been filed to quash the proceedings in C.C. No.7019 of 2018 on the file of the Metropolitan Magistrate, CCB / CBCID Court, Egmore.

2. The learned counsel appearing for the petitioners would submit that the 1st respondent police have registered a case against the petitioners and others based on the false complaint given by the 2nd respondent. Even as per the prosecution, the 2nd respondent is the agreement holder of the property in dispute and the 2nd petitioner had purchased the property from the original owners for good and valuable consideration and the 1st petitioner is the attesting witness in the sale deed. Though the defacto complainant is an agreement holder, prior to the sale of the property, he has to approach the Civil Court for proper remedy. Instead, he lodged a false complaint. The 2nd respondent also



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filed a Civil Suit in C.S. No.914 of 2017 before this Court and the matter has been settled through compromise between the parties and compromise decree was also passed. As per the compromise, the 2nd respondent has to withdraw all the pending cases including this C.C. No. 7019 of 2018, but he failed to withdraw the same. Hence the present petition is filed.

3. The learned counsel appearing for the 2nd respondent would submit that the petitioners along with others, have cheated the defacto complainant and alienated the property, when the agreement for sale is in favour of the defacto complainant. Hence he lodged the complaint and now the case is pending. While so, already the defacto complainant filed a Civil Suit in C.S. No.914 of 2017 on the file of this Court and entered into compromise and decree was also passed. However, the petitioners and others have not followed the terms of compromise and hence he did not withdraw the cases.

4. The learned Additional Public Prosecutor appearing for the 1st respondent would submit that based on the complaint given by the 2nd respondent, FIR has been registered and then investigation was also



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completed and they filed final report as against all the accused. As per the final report, there are prima facie materials available to proceed with the case as against all the accused. The trial Court has also taken cognizance and the case is now pending for trial. Hence he prayed to dismiss the petition.

5. This Court heard both sides and perused the records.

6. In this case, it is an admitted fact that FIR has been registered based on the complaint given by the defacto complainant, who is the agreement holder for sale of the property. Even as per the prosecution case, while pending agreement, the 2nd petitioner has purchased the property from the original owners and the 1st petitioner is the attesting witness in the sale deed. There is no legal bar to sell the property while pendency of agreement. If any breach of agreement, then the remedy is to approach the appropriate Civil Court for appropriate remedy. There are no ingredients to constitute the offences under Sections 120-B, 406, 420, 467, 468, 471 and 506(i) of IPC as against these petitioners, who are



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the attesting witness and purchaser of the property respectively. Even as per the FIR and charge sheet, the matter is purely 'civil in nature'. These petitioners are only the attesting witness and the purchaser of the property for a valuable sale consideration. Therefore, there is no offence made as against these petitioners. However, the defacto complainant / 2nd respondent has filed a Suit in C.S. No.914 of 2017. In that Suit, compromise was arrived between the parties and the matter was referred to Mediation and the matter has been settled. As per the settlement, the 2nd respondent has to withdraw all the cases filed by him as against these petitioners and others. Based on the above settlement, the Suit in C.S. No.914 of 2017, which was filed by the 2nd respondent was disposed of. Thereafter, the 2nd respondent has failed to withdraw the cases. Therefore, this petition has been filed by the petitioners.

7. Though the matter has already been settled between the parties, as per the agreement, the 2nd respondent has to withdraw the cases, but he failed to withdraw the cases. According to the 2nd respondent, after settlement, the terms of the agreement have not been complied by the petitioners and others and thereby, he refused to withdraw the cases.



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Since the matter has already been settled between the parties in the civil suit and the 2nd respondent has also agreed to withdraw all the cases as against the petitioners and others, as per the memorandum of understanding and Tripartite agreement, if any condition is breached by the parties to agreement, the aggrieved party can initiate appropriate proceedings as per law. Therefore, the 2nd respondent is at liberty to approach the appropriate forum for execution of decree if any condition is breached. Since the nature of allegations are civil in nature and already a Civil Suit was filed and compromise decree had been passed, it is not appropriate to continue the criminal proceedings only because some of the terms of agreement have not been complied by some of the parties. Even on merits, there is no offence made out as against these petitioners, since, these petitioners 1 and 2 are only the attesting witness and the purchaser of the property respectively and the matter is civil in nature. Therefore, there are no materials to constitute the offence under Sections 120-B, 406, 420, 467, 468, 471 and 506(i) of IPC as against these petitioners. Therefore, the pending proceedings as against the petitioners in C.C. No.7019 of 2018 on the file of the Metropolitan



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Magistrate, Land Grabbing Special Court-II, Chennai are liable to be quashed.

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8. Accordingly, the criminal original petition is allowed and the pending proceedings in C.C. No.7019 of 2018 on the file of the Metropolitan Magistrate, CCB / CBCID Court, Egmore is quashed. No costs. Consequently, the connected miscellaneous petitions are closed.

03.10.2024

[6/6]

index: Yes/No

Internet: Yes/No

Speaking/Non Speaking order

mjs

P.DHANABAL,J

mjs

To

1. The Metropolitan Magistrate, CCB / CBCID Court, Egmore
2. The Public Prosecutor, High Court, Madras.
3. The Inspector of Police, Central Crime Branch, Team-18, Veperiy, Chennai-600 007.



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