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Crl.O.P.No.13253 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 09.08.2024

Pronounced on: 13.08.2024

Coram:

THE HONOURABLE Dr. JUSTICE G.JAYACHANDRAN

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& Crl.M.P.Nos.8063 & 8064 of 2024

1. K.Kugesh.
2. K.Sathish.
3. K.Rajakumari.
4. P.Jeyaraman.
5. J.Radha.

.... Petitioners/Accused 1 to 5

/versus/

1. The State Rep. by,
Inspector of Police,
City Crime Branch, Team-15,
Land Grab Investigation Wing-1,
Veppery,
Chennai – 600 007.

.... 1st Respondent/Complainant

2. Rajamanickam,
Sub Registrar (Incharge),
S.R.O, Villivakkam,
Chennai – 600 037.

.... 2nd Respondent/defacto Complainant

Prayer: Criminal Original Petition has been filed under Section 482 of Cr.P.C., to call for the records relating to the C.C.No.554 of 2024 on the file of Metropolitan Magistrate, C.C.B & C.B.C.I.D Court, Egmore, Chennai.



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For Petitioner : Mr.V.C.Janardhanan,
for Mr.C.Prabakaran.

For R1 : Mr.S.Udaya Kumar,
Government Advocate (Crl.Side)

ORDER

This petition is filed to quash the criminal complaint against the petitioners in Crime No.73 of 2023 which came to be registered pursuant to the complaint given by the Sub Registrar, Villivakkam. The Government land classified as Tank Bed (Eari Ulvai) by creating fake patta title has been vested with the petitioners by way of settlement deed and perpetrator of the crime appears to be the father of the petitioners 1 and 2. On verification of the documents i.e., patta and the title documents, it is found that the settlement deed already cancelled by the proceedings of the District Registrar (Administration), Central Chennai dated 01.08.2020 in Na.Ka.No.7439/AA2/2020. Thereafter, the case has been registered under Sections 420, 465,467,468,471 & 34 of IPC dated 31.03.2023 in crime No.73 of 2023.



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2. The present petition is filed to quash the complaint stating that the petitioners on their own cancelled the settlement deed immediately after knowing that the patta which was given in the name of their father was not in the manner known to law. They are innocent persons and having come to know about the improper assignment of patta, they have rectified the same by cancelling the settlement deed. Further, in the affidavit filed it is stated that they are in possession of the property since 1991 and obtained electricity service connection and they will hand over the vacant possession of the property to the authorities to show their bonafide that they have no criminal intention. They are unaware that the property which is in dispute measuring to an extent of 240.76.0 in S.No.809 of Korrattur Village, is a Government Land.

3. An affidavit by the petitioners been filed stating that they are ready to hand over the possession to the authorities and they will not claim any right over it. Accordingly, the petitioners have filed undertaking affidavit, wherein, it is stated that they relinquishing right whatsoever in the two plots and will not claim any manner in future and hereby quit and deliver the vacant possession of the properties to the authorities.



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4. For reference, the undertaking affidavit signed by all the five petitioners are extracted below:-

“2. I submitted that the 1st respondent registered a case in Crime No.73 of 2023 against the petitioners based on the complaint of the 2nd Respondent, who is the Sub-Registrar, Villivakkam on 26.09.2023. The allegation in the complaint is that the property comprised in Survey No.809, Plot No.1 measuring to an extent of 1316 sq.ft, and Plot No.8 measuring to an extent of 1326 square feet of land situate at Korattur Village, Ambathur Taluk, Thiruvallur District is classified as Tank Bed (Eari Ulvai). in respect of the said land a Patta was forged and two settlement deeds were registered vide document No. 1544 of 2020 executed by 3rd petitioner in favor of 2nd petitioner (Mother to Son) in respect of Plot No.1 and No. 1548 of 2020 executed by 4th petitioner in favour of 5th petitioner (Father to and further the Sub-Registration Department held cancelled the settlement deeds as per its order in proceedings No.7439/AA2/2020 dated 01.08.2020 and preferred the complaint against the 3rd and 4th petitioners herein. Accordingly, the 1st respondent police have registered a case in Crime No.73 of 2023 for the offence under



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section 420, 465, 467, 468, 471 and 34 of I.P.C.

3. I further submits that subsequently the 1st respondent police have conducted the investigation and altered the F.I.R. and the petitioners 2 and 5 were being implicated as they are belongs to same family and further the 1st petitioner is son of the 3rd petitioner have made arrangement for registration of the Settlement Deeds in respect of the Tank Bed Poramboke and the others petitioners are settlees under the settlement deeds.

4. Subsequently, they have conducted the further investigation and recorded statements from several persons and filed the Final Report in C.C.No.554 of 2024, before the Learned Metropolitan Magistrate, C.C.B./C.B.C.I.D., Egmore and pending for trial. Hence we have filed Quash petition before this Hon'ble Court seeking to quash the criminal proceedings raising various valid and legal grounds.

5. The above quash petition was came up for admission on whether we are willing to give up the right relating to the subject matter 27.06.2024, upon hearing this Hon'ble Court was pleased to observed that whether



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we are willing to give up the right relating to the subject matter of the property under charge. I submit that though we had not committed any offence as alleged by the prosecution, in order to put an end in criminal proceedings and to show our bonafide, we are herewith filing this undertaking affidavit that we will not claiming any right or interest relating to the subject matter of the property at any point of time, though it is our possession and enjoyment from the year 1991. We have paying property tax and also obtained electricity service connection by putting up shed in the property. However, we are hereby relinquishing plots the right in respect of these two plots and will not claim any manner in future and hereby we are quit and deliver the vacant possession of the properties to the authorities.

6. I submit that pendency of the criminal case has become a stigma in our life, we never indulge such activities or intended to involve the same. Therefore, we being the law abiding citizens, we filing this undertaking affidavit on our own, free and volition that we are not claiming any right over this two plots in Plot No.1 in Survey No.809, situate at Korattur Village, Ambatur Taluk, Tiruvallur District, measuring to an extent of 1316 sq.ft of house site and Plot No.8 in Survey No.809,



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situate at Korattur Village, Ambatur Taluk, Tiruvallur District, measuring to an extent of 1326 of house site and hereby delivering the vacant possession of the property to the competent authority.”

5. The Learned Government Advocate (Crl.Side) for the 1st respondent states that the petitioners have vacated and handed over the vacant possession to the Authorities.

6. From the complaint, it is clear that the alleged forgery and fabrication of documents was not done by these petitioners but by their predecessor-in-title. These petitioners were enjoying the property as legal heirs of one Karthikeyan whose whereabouts are not known for more than five years.

7. In the light of the fact that these petitioners have handed over the vacant possession and given an undertaking that they have relinquished all their rights and claim over the properties and having cancelled the documents which has conferred title on them, this Court is of the view that it is a fit case to be interfered to quash.



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8. Accordingly, this Criminal Original Petition is allowed. The petition in C.C.No.554 of 2024 on the file of Metropolitan Magistrate, C.C.B and C.B.C.I.D, Court, Egmore, Chennai is hereby quashed. Consequently, connected Miscellaneous Petitions are closed.

13.08.2024

Index :Yes/No.

Internet :Yes/No.

Speaking Order/Non-Speaking Order.

bsm

To:-

1. The Metropolitan Magistrate, C.C.B & C.B.C.I.D Court, Egmore, Chennai.
2. The Inspector of Police, City Crime Branch, Team-15,
Land Grab Investigation Wing-1, Veppery,
Chennai – 600 007.
3. The Public Prosecutor, High Court, Madras.



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DR.G.JAYACHANDRAN,J.

bsm

Pre-delivery order made in
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13.08.2024