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CrI.O.P.No.20034 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.01.2024

CORAM:

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

CrI.O.P.No.20034 of 2022

and

CrI.M.P.No.13140 of 2022

1. S.Malathi

2. T.Yasodha

... Petitioners

Versus

1. State rep. by
The Inspector of Police,
E1 Singanallur Police Station,
Coimbatore.
(Crime No.74 of 2022)

2. Ajira

... Respondents

PRAYER : Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to call for the records relating to the proceedings in Crime No.74 of 2022 dated 24.01.2022 on the file of the 1st respondent police and quash the same.



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For Petitioners : Mr.S.A.Sayed Shuhaibb

For Respondents : Mr.S.Vinoth Kumar,
Govt. Advocate (Crl. Side) for R1

Mr.V.Balamurugan for R2

ORDER

This Criminal Original Petition has been filed seeking to quash the F.I.R. in Crime No.74 of 2022 on the file of 1st respondent police.

2. Heard both sides.

3. The petitioners are ranked as accused 1 and 2 in the F.I.R. in Crime No.74 of 2022 registered for an offence under Sec.420 of I.P.C. based on the complaint given by the 2nd respondent/defacto complainant.

4. Brief facts of the case is that the 1st petitioner and her sister one Vidhya have jointly purchased a land measuring 1945 sq.ft. including the



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constructed building measuring 850 sq.ft. comprised in Survey No.190/3A1 situated at Vellalore Village, Coimbatore Taluk, Coimbatore vide sale deed dated 26.02.2007. Thereafter, the 1st petitioner's sister executed a settlement deed dated 05.08.2008 in favour of 1st petitioner. On that day onwards, she became absolute owner of the said property and she was in peaceful possession and enjoyment of the same. Subsequently, in the year of 2021, the 2nd respondent herein approached the 1st petitioner for purchase of the said property. After negotiation, a final price was arrived at Rs.60,00,000/- mutually and she paid a token advance amount of Rs.10,000/- and obtained set of property documents from her for verification. Subsequently, a sale agreement dated 15.04.2021 was entered between them and the 2nd respondent transferred part of the amount of Rs.21,00,000/- through online transaction and assured to pay the remaining amount after availing a loan. Thereafter, the 2nd respondent had paid total amount of Rs.59,50,000/- to the 1st petitioner herein on various dates. After receipt of the amount, when the 2nd respondent requested her to execute the sale deed, she demanded the remaining amount of Rs.50,000/-, for which she assured that after



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execution of sale deed, the same would be paid. Believing the same, the 1st petitioner executed the sale deed dated 31.05.2021 in favour of her. But, after execution of sale deed, when the 1st petitioner demanded for balance amount of Rs.50,000/- and the unfilled three security cheques, the 2nd respondent did not respond, on the other hand, inspite of objections made by the 1st petitioner, the 2nd respondent with ulterior motive presented the cheques and the same were returned citing the reason as 'drawer signature differs' and also gave a complaint. Further, the 2nd petitioner herein is mother, who is no way connected with the transaction between them, but she was falsely implicated in this case.

4. The learned counsel for petitioners would submit that the F.I.R. was registered based on the false allegations. He would submit that in order to harass the petitioners and to extort money, the said complaint was filed. Hence, he prayed to quash the proceedings initiated against them.



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5. By way of reply, the learned Government Advocate (Criminal side) appearing for 1st respondent would submit that as per the F.I.R. allegation, these petitioners cheated the 2nd respondent/defacto complainant by issuing cheques without even knowingly well there is no amount in her account, besides the cheques were returned as drawer signature differs and also the fact remains that inspite of her efforts, she is not able to meet the petitioners. Thus, the conduct of petitioners reveals that with an intention to cheat the 2nd respondent/defacto complainant, they have played the said role. Hence, he raised strong objections.

6. Considering the facts and circumstances, it reveals that the 1st petitioner is the owner of property and she executed a sale deed in favour of 2nd respondent/defacto complainant for a sum of Rs.38,40,000/- on 31.05.2021. Thereafter, there was some transaction between the parties with regard to issuance of cheques and the same were dishonoured and when the 2nd respondent/defacto complainant tried to meet the petitioners, they were not there. Moreover, the 2nd petitioner is aged about



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75 years, who is mother of 1st petitioner, has not signed in the sale deed nor she is owner of the property. Hence, the proceedings initiated against the 2nd petitioner is liable to be quashed as there is no prima facie materials against her. But, in respect of 1st petitioner, as per the submissions of learned Government Advocate, there is some transaction between them, which needs detailed investigation. Hence, this Court is not inclined to quash the proceedings initiated against the 1st petitioner. Accordingly, this Criminal Original Petition is dismissed as against 1st petitioner. Furthermore, in respect of 2nd petitioner, this Court is inclined to quash the proceedings initiated against her in F.I.R. in Crime No.74 of 2022 and accordingly, this Criminal Original Petition is allowed. Consequently, connected Criminal Miscellaneous Petitions are closed.

12.01.2024

Index: Yes/No

Internet: Yes/No

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To

1. The Inspector of Police,
E1 Singanallur Police Station, Coimbatore.
2. The Public Prosecutor, High Court, Madras.



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T.V.THAMILSELVI, J.

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