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Crl.O.P.No.24150 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.01.2024

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THE HONOURABLE MRS.JUSTICE T.V.THAMILSELVI

Crl.O.P.No.24150 of 2022
and Crl.M.P.No.15309 of 2022

1.S.Selvaraja
2.S.Kathirvel

... Petitioners

Vs.

1.State Rep. by its
The Sub Inspector of Police,
District Crime Branch,
Namakkal District,
Crime No.16 of 2019

2. P.Vadivel

... Respondents

Prayer: Criminal Original Petition filed under Section 482 of Cr.P.C.,
praying to call for the records and to quash the FIR in Crime No.16 of 2019,
pending investigation on the file of the 1st respondent dated 06.05.2019.

For Petitioners	:Mr.R. Marudhachalamurthy
For R1	:Mr.S.Vinoth Kumar Government Advocate (Crl.Side)
For R2	:Mr.B.Kumarasamy

ORDER

The petitioners have filed this petition to quash the FIR in Crime No.16 of 2019 pending investigation on the file of the 1st respondent, for the offences under Sections 294(b), 465, 471, 420 and 506(i) of IPC, as against



CrI.O.P.No.24150 of 2022

the petitioners.

WEB COPY

2. The case of the prosecution is that the property in S.F.No.446/4 to an extent of 1.04 acre at Komarapalayam Amani Village, Komarapalayam Taluk, Namakkal District is their family property. The said property is owned by the defacto complainant's father namely T.K.Perumal and his brother Sellappa Gounder and both of them having equal rights on the property. On 11.02.1977 the 2nd respondent's father had sold 13 cent out of his half share in favour of his brother Sellappa Gounder and remaining 39 cents is enjoyed by him. Due to their avocation his brother and 2nd respondent went to other place and at that time, his paternal uncle had cultivating the entire extent 1.04 acres as per the understanding prevailing between them. In this juncture, he sold the entire extent of land in connivance to other accused to these petitioners in the year 2007 and the same was came to their knowledge on 12.02.2019.

3. The learned counsel for the petitioners submitted that the petitioners have purchased the property after due verification of title from the real owner of Sellappa Gounder for a valid and valuable consideration



Crl.O.P.No.24150 of 2022

through registered sale deed dated 11.01.2007 in Doc.No.69 of 2007 on the file of Sub-Registrar of Komarapalayam. Right from the day one of the purchasing the property, the petitioners are enjoying the same and the same is well know to the 2nd respondent, who is residing opposite to the property. He further submitted that the 2nd respondent issued legal notice on 31.12.2018 in respect of the above issue to the petitioners and the same is rightly answered by way of reply by these petitioners on 11.02.2019 and after receipt of said reply they understood that they have no title over the property and therefore they have approached the respondent and trying to achieve their ill desire through respondent herein by way of registering in the present FIR and there is no truth in the complaint and they are trying to give a criminal colour to the Civil prevailing between the petitioners and the 2nd respondent. Hence, he prays to quash the FIR against them. Due to the harassment of the respondent police the petitioners have approached this Court and filed Writ petition in W.P.No.14132 of 2019 as against the respondent for the relief of not to harass the petitioners in the guise of enquiry and knowing the same immediately registered the present FIR with malafide intention.

4. The learned Government Advocate (Crl.Side) appearing for the 1st



Crl.O.P.No.24150 of 2022

respondent submitted that already there was a Civil dispute among them.

Based on the complaint lodged by the defacto complainant, FIR has been registered in Crime No.16 of 2019, for the offences under Sections 294(b), 465, 471, 420 and 506(i) of IPC.

5. Considering the facts and circumstance, and also the fact that already there was civil dispute from the year 2007 onwards and gave a criminal colour to the Civil issue. However, liberty is granted to the defacto complainant to work out the remedy before the Civil forum in the manner known to law. Therefore, this Court is inclined to quash the proceedings against the petitioners in Crime No.16 of 2019.

6. Accordingly, this Criminal Original Petition is allowed. Consequently, connected miscellaneous petition is closed.

05.01.2024

Index: Yes/ No
Neutral Citation: Yes/No
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Crl.O.P.No.24150 of 2022

To
WEB COPY

- 1.The Sub Inspector of Police,
District Crime Branch,
Namakkal District,
Crime No.16 of 2019
- 2.The Public Prosecutor,
High Court of Madras.

T.V.THAMILSELVI, J.



WEB COPY



Crl.O.P.No.24150 of 2022

ri

Crl.O.P.No.24150 of 2022
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