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CrI.O.P.No.26048 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.10.2024

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THE HONOURABLE DR.JUSTICE **G.JAYACHANDRAN**

CrI.O.P.No.26048 of 2024

and

CrI.M.P.Nos.14451 & 14452 of 2024

1.Sujatha
2.Reshman
3.Tamilarasu
4.Kavitha

... Petitioners

Vs.

1.The State of Tamilnadu rep.by
The Inspector of Police,
Perambalur Police Station,
Crime No.175/2024

2.Santhi

... Respondents

Prayer: Criminal Original Petition is filed under Section 528 BNSS, pleaded to call for the records in C.C.No.77 of 2024 pending on the file of the learned Additional Mahila Court, Perambalur quash the same with respect to the petitioners.

For Petitioners : Mr.S.N.Subramani

For R1 : Mr.S.Udayakumar
Government Advocate (CrI.Side)

ORDER



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This Criminal Original Petition is filed to quash the criminal complaint in C.C.No.77 of 2024 on the file of the Learned Additional Mahila Court, Perambalur.

2. The learned counsel appearing for the petitioners submits that a pure civil dispute regarding the sale of property been given criminal colour. These petitioners, who are no way connected with the transaction, had been arrayed as accused, only reason that they are the wife and children of Anbazhagan, the 1st accused.

3. The case of the prosecution is that Anbazhagan and Sujatha had mortgaged the property with Repco Home Finance Limited, suppressing the fact had entered into sale agreement and had received Rs.46,70,000/-. When the defacto complainant approached them to redeem the property and execute the sale deed, the defacto complainant was threatened by these petitioners and Anbazhagan with dire consequence. Hence case under Sections 109, 294(b), 406, 420 & 506(ii) IPC and Section 4 of the TN Prohibition of Harassment of Women Act, 2002 been registered against them and final report filed.

4. The learned counsel appearing for the petitioners submits



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that the transaction is purely civil in nature. More so, it is only between Anbazhagan and the defacto complainant. The son of the 1st petitioner is not residing in India. He is pursuing his study in Russia. The property mortgaged, which is the subject matter of the case, been redeemed by the 1st petitioner on 22.02.2024. The complainant, who advanced the loan, had created sale agreement and demanding exorbitant interest and hence the complaint in this regard been given to the Inspector of Police on 03.03.2024. Therefore, seeks indulgence of this Court to quash the case.

5. Perusal of the statement of witnesses and the documents relied by the petitioners herein reveals that the complaint lodged by Santhi on 03.03.2024 taken up for investigation and final report filed on 18.04.2024. The statement of witnesses as well as the confession statement of the petitioners discloses that pending discharge of the mortgage, the accused persons have entered into sale agreement with the complainant on 16.05.2022, which was redrafted on 12.07.2022 and 29.06.2023. A total sum of Rs.46 lakhs received from the complainant.

Dr.G.JAYACHANDRAN,J.

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The mortgage was discharged on 22.02.2024. After discharge of the mortgage, the petitioners did not come forward to execute the sale deed.

Hence the complaint.

6. Admittedly the money which is the proceeds of crime been utilised for the education of sons, who are the accused persons in this case. Since *prima facie* material available for prosecuting these petitioners for offence of cheating and abetting the crime, this Court is of the view that the petitioners have to face the trial. Hence it is not a fit case to quash. Accordingly, this Criminal Original Petition is dismissed. Consequently, the connected Criminal Miscellaneous Petitions are closed.

22.10.2024

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To

1. The Additional Mahila Court, Perambalur
2. The Inspector of Police, Perambalur Police Station,
3. The Public Prosecutor, High Court of Madras, Chennai.

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