



Crl.O.P.(MD)No.1382 of 2023

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 20.08.2024

CORAM

THE HONOURABLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

Crl.O.P.(MD)No.1382 of 2023

and

Crl.M.P.(MD)No.1226 of 2023

1.(*)Balaji Real Estate

2.K.A.Durairaj

... Petitioners/ A1 & A2

vs.

1.State Rep. by

The Inspector of Police,
Economic Offences Wing-II,
Kajamalai, Trichy District.
Crime No.2 of 2022

... 1st Respondent/ Complainant

2.Subramaniyan

... 2nd Respondent/ Defacto complainant

Prayer:- Petition filed under Section 482 of Cr.P.C., to call for the records of the impugned FIR in Crime No.2 of 2022, dated 19.12.2022 on the file of the first respondent police and quash the same.

For Petitioners : Mr.G.Prabhu Rajadurai

For Respondent : Mrs.M.Aasha
Government Advocate (Crl. side) for R1

: Mr.N.Anandakumar for R3



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ORDER

The Criminal Original Petition is filed to quash the First Information Report in Crime No.2 of 2022, dated 19.12.2022 on the file of the first respondent police.

2.Heard *Mr.G.Prabhu Rajadurai*, the learned counsel appearing on behalf of the petitioners and *Mrs.M.Aasha*, the learned Government Advocate (Crl. Side) appearing on behalf of the first respondent.

3.The learned counsel for the petitioners would submit that the petitioners are the promoters of a layout called 'Balaji Nagar'. However, the said layout was initially promoted as an unapproved layout. The petitioners framed a scheme as per which the purchasers are to pay the sale consideration by way of monthly installments and once they pay the amount, sale deeds were being executed. Originally, the area was plotted out into 582 plots, of which sale deeds were executed for about 352 plots. While things stood thus, in the year 2016, in view of the embargo imposed by the Government of Tamil Nadu from selling the plots of unapproved layouts, further sale deeds could not be executed by the petitioners.



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Therefore, the defacto complainant, Subramaniyan, had lodged the complaint, based on which, the present case is registered for the offence under Sections 406 and 420 of IPC and also Section 5 of the Tamil Nadu Protection of Interest of Depositors (In Financial Establishment) Act, 1997. The learned counsel would further submit that however, thereafter, things proceeded in accordance with the directives of the Government of Tamil Nadu, the petitioners further proceeded with the application for regularization of the layout and the layout was regularized and thereafter, for the rest of the persons totally amounting to 72 persons, sale deeds were executed and the plots were given. That includes the defacto complainant, Subramanian and two other persons, who gave complaint, namely, Ragavendran and Jayapal. Since for all the three persons who have given the complaint, plots have been handed over, nothing further needs to be investigated in the case. He would further submit that even at the time of grant of bail, an affidavit was filed by the petitioners before this Court that they did not intend to collect deposits and cheat the depositors, but it was only a scheme for purchase of the plots. Only because the embargo with reference to the unapproved layout came in the year 2016, the sale deeds could not be executed. Subsequently, when the said factual scenario has been cleared in view of the regularization passed, the petitioner had given an undertaking that even in respect of the persons who have not given complaint and who have not approached

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the respondent police, as and when they come, subject to the minor variance in the plot extent and the consequent difference in value, they have been executing the sale deeds and they will execute the sale deeds for every person who had paid the installments. They have also made a paper publication in one issue of 'Dina Malar'.

4.Per contra, the learned Government Advocate (Crl. side) would file a status report of the first respondent and submit that this is not a case of mere purchase of plot, but the petitioners floated as if it is a chit fund scheme. Upon maturity of the amount, instead of promising the amount to be returned, it was promised that the sale deeds for the plots will be executed. Eventhough in the year 2013 itself the amounts were duly paid by the three complainants, who approached the police, no sale deeds whatsoever have been executed in their favour and only in the year 2023, the sale deeds were executed after registering the case. She would also submit that the they have not received any other complaint thereafter.

5.The learned counsel appearing on behalf of the defacto complaint Subramanian would submit that as far as his client is concerned, the registration was done in his favour and he has also received the registered document and therefore, he is not further interested in prosecuting the complaint and he is



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consenting that the complaint be quashed as far as his client, Subramanian is concerned.

6.I have considered the rival submissions made on either side and perused the material records of the case.

7.It can be seen that eventhough different versions are given with reference to the kind of scheme, which is framed by the petitioners, the crux of the grievance of the defacto complainant and the other two complainants was that eventhough they paid money, ultimately the sale deeds were not registered in their favor. The learned counsel for the petitioners submits that the sale deeds were not registered initially only for the reason relating to unapproved layout and thereafter it is registered. A perusal of the status report filed on behalf of the police in paragraph No.9, the particulars of the sale deeds registered by the petitioners are given and the same reads as follows:

"9.It is humbly submitted that the complainant Subramaniyan received the plot and the registered document no is. 10022, dated 06.12.2023, the second complainant Ragavendran received the plot and the registered document no is.



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4596, dated 27.09.2023 and the third complainant Jayapal received the plot and the registered document no is. 4836, dated 13.06.2023 as per the Court order."

The respondent police received complaints only from three persons and all those three persons have now since received the sale deeds. As a matter of fact, the learned counsel appearing on behalf of one of the complainants also makes it clear that his client expressly consents that the case need not be proceeded with. It can be seen that the offences under Sections 406 and 420 of IPC as well as Section 5 of the TANPID Act are compoundable in nature. Apart from the contentions made by the learned counsel for the petitioners that the sale deeds were not executed only because of the intervening embargo and that they are ready to execute the sale deeds and subsequently, the sale deeds were also executed and coupled with the fact that there are no other complainants, who have approached the respondent police and considering the affidavit filed by the petitioners that they will continue to register the sale deeds for others who approach them, on recording the statement of the learned counsel for the petitioners that even after the registration of the case, 72 sale deeds have been executed by them in respect of the persons whoever have invested the money, I am inclined to quash the proceedings, especially on the consent given by the learned counsel for the defacto complainant also.



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8.For all the above reasons, the impugned FIR in Crime No.2 of 2022, dated 19.12.2022 on the file of the first respondent police shall stand quashed and the Criminal Original Petition is allowed. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS II)

(*)Corrected as per order of this Court dated 15/10/2024 made in CRL OP(MD)No.1382 of 2023

Sd/-

Assistant Registrar (CS II)

// True Copy //

/10/2024

Sub Assistant Registrar(CS)

sjj

To

(*)To be substituted the order which already despatched on 10/10/2024

1.The Inspector of Police,
Economic Offences Wing-II,
Kajamalai,
Trichy District.

2.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to M/s.N.ANANDA KUMAR, Advocate (SR-45092[F] dated 21/08/2024)

+1 CC to M/s.G.PRABHU RAJADURAI, Advocate (SR-45071[F] dated

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SL(12.09.2024)/ 8P/ 5C

MGJ(17.10.2024) 8P 5C

Madurai Bench of Madras High Court is issuing certified copies in this format from 17.07.2023