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CrI.O.P.(MD)No.7168 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 20.03.2024

CORAM:

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

**CrI.O.P.(MD) No.7168 of 2022**

**and**

**CrI.M.P.(MD).Nos.4931 & 4933 of 2022**

1.Narendra C.Savalia

2.Ramani

... Petitioners

Vs.

1.The State of Tamil Nadu,  
Represented by the Inspector of Police,  
District Crime Branch,  
Tirunelveli District.  
(Crime No.12 of 2007)

2.P.Dhanraj

...Respondents

**PRAYER:** Criminal Original Petition is filed under Section 482 of Cr.P.C, to call for the records relating to the proceedings in C.C.No.541 of 2010 pending on the file of the learned Judicial Magistrate No.I, Tirunelveli and quash the same insofar as the petitioners are concerned.

For petitioners : Mr.Ajmal Khan  
Senior Counsel  
for M/s.Ajmal Associates

For R-1 : Mr.S.Manikandan,  
Government Advocate  
(Criminal Side)

For R-2 : Mr.P.P.Alwin Balan



**ORDER**

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This petition has been filed seeking to quash the proceedings in C.C.No.541 of 2010 pending on the file of the learned Judicial Magistrate No.I, Tirunelveli, insofar as the petitioners are concerned.

2. The case of the prosecution is that the petitioners / Accused Nos.10 as a Power Agent of M/s.Sarjan Realities Private Limited, Valliyur, by colluding with Accused No.14, had fraudulently executed sale deed vide Document No.1046/04, dated 19.07.2004, registered at Sub Registrar, Uthumalai in respect of land in Survey No.405 / 01 admeasuring two acres at Palapathraramapuram Village, Uthumalai, Tirunelveli District for valuable consideration in favour of the second respondent. It is the further case of the prosecution that the petitioners are in absolute possession and enjoyment of the property from the date of purchase. However, after lapse of three more years, the second respondent made a complaint before the Superintendent of Police against the petitioners that the petitioners had created false and fictitious registered documents in respect of Survey Nos.405/1 and 404/2 at Balapathiraramapuram Village in VK Puram Taluk, Tirunelveli District.

The Superintendent of Police forwarded the same to the Inspector of



Police, District Crime Branch and the respondent Police registered a case in Crime No.12 of 2007 for the offence punishable under Sections 465, 467, 468, 419, 471 and 420 IPC. The respondent Police after completing investigation, has filed a charge sheet and the same was taken on file in C.C.No.541 of 2010 before the learned Judicial Magistrate No.I, Tirunelveli. Challenging the same, the present petition has been filed.

3. The learned counsel appearing for the petitioners would submit that for the very same set of allegations, the second respondent has already filed a civil suit in O.S.No.449 of 2006 before the learned Additional District Judge, Tenkasi, by impleading the petitioners herein as defendants. He would further submit that the said suit was decreed in his favour, against which, the Company viz., M/s.Sarjan Realities Private Limited had preferred an Appeal before the Lower Appellate Court in A.S.No.59 of 2011 and the said Appeal was allowed. As against which, the second respondent filed Second Appeal before this Court and the same is pending for adjudication. He would further submit that when the Lower Appellate Court already arrived at the conclusion that the transaction is *bona fide* one and for the very same set of allegations, the prosecution cannot be continued as against the petitioners and it is not sustainable one. He would further submit that Accused No.15 in this case has already filed Crl.O.P.(MD).No.5776 of 2011 before this Court to



quash the proceedings in C.C.No.541 of 2010 and this Court allowed the said Criminal Original Petition on 04.09.2018. He would further submit that since the petitioners are bona fide purchasers and they were no way connected with the alleged fabrication of documents and hence, he prays for allowing this petition. He would further submit that the entire allegations are civil in nature and wantonly, the second respondent has given the civil dispute a criminal colour.

4. The learned counsel appearing for the second respondent would submit that the entire allegations levelled against the petitioners are true and it cannot be quashed at this stage and charges can be proved only through the full fledged trial and hence, he prays for dismissal of this petition.

5. The learned Additional Public Prosecutor appearing for the State has adopted the arguments of the learned counsel appearing for the second respondent.

6. It is seen from the records that without any title by way of fictitious document, the petitioners executed the sale deed in favour of Accused No.15, for which, the second respondent made a complaint before the respondent Police. It is further seen that the proceedings



against Accused No.15 has already been quashed by this Court in Crl.O.P.(MD).No.5776 of 2011. In order to decide the above issue, it is necessary to refer to the decision rendered by the Hon'ble Apex Court in ***State of Haryana – Vs - Bhajan Lal (1992 SCC (Crl.) 426) and the relevant portion in the Judgment is extracted hereunder:***

*(6) where there is an express legal bar engrafted in any of the provisions of the Code or the concerned Act (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/or where there is a specific provision in the Code or the concerned Act, providing efficacious redress for the grievance of the aggrieved party;*

7. As per the guidelines issued by the Hon'ble Apex Court, it is clear that the issue between the parties is civil in nature and the aggrieved parties have to work out their remedy before the appropriate Civil Court. Keeping in mind, the above said guidelines issued by the Hon'ble Apex Court, admittedly, for the very same allegations, the second respondent has approached the Civil Court and the Civil Court also decreed in his favour, against which, the petitioners preferred an Appeal before the Lower Appellate Court and the Lower Appellate Court allowed the matter, against which, the second respondent has approached



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this Court by way of Second Appeal and the Second Appeal is pending before this Court. When the Civil Court already seized of the matter and rendered its findings, for the very same issue, the respondent Police cannot conduct a parallel proceedings under Cr.P.C. which is impermissible one.

8. For the reasons aforesaid, this Court is inclined to quash C.C.No.541 of 2010, pending on the file of the learned Judicial Magistrate No.I, Tiruenveli against the petitioners are concerned.

9. Accordingly, this Criminal Original Petition is allowed and the proceedings in C.C.No.541 of 2010, pending on the file of the learned Judicial Magistrate No.I, Tiruenveli, stands quashed insofar as the petitioners are concerned. Consequently, connected miscellaneous petitions are closed.

**20.03.2024**

Index : Yes/No  
Internet : Yes/No  
NCC : Yes / No  
TSG



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To

1.The Judicial Magistrate No.I, Tirunelveli.

2.The Inspector of Police,  
District Crime Branch,  
Tirunelveli District.

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

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**M.DHANDAPANI. J.**

TSG

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