



CrI.O.P.(MD)No.7400 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 06.03.2024

CORAM

**THE HON'BLE MR.JUSTICE M.DHANDAPANI**

CrI.O.P.(MD)No.7400 of 2022

and

CrI.M.P.(MD)Nos.5045 & 5047 of 2022

1.Syed Mohamed

2.Abitha Beevi

... Petitioners

Vs.

1.The Inspector of Police,  
Anti Land Grabbing Special Cell,  
Nagercoil, Kanyakumari District.

2.A.Mohamed Shafi

... Respondents

**PRAYER :** Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to call for the records in C.C.No.1023 of 2019 on the file of the Special Court for Land Grabbing Cases, Tirunelveli and quash the same as against this petitioners/A2 & A3.

For Petitioners

: Mr.S.Vasik Ali

for Mr.V.Meenakshi Sundaram



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

For R2 : Mr.M.D.Senthil

### **ORDER**

This Criminal Original Petition has been filed to quash the charge sheet in C.C.No.1023 of 2019 on the file of the Special Court for Land Grabbing Cases, Tirunelveli.

2.The case of the prosecution is that the petitioners herein is the husband and wife, who are arrayed as A2 and A3. A1 is none other than the sister of the defacto complainant. The defacto complainant made a complaint stating that there was partition suit and the same was decreed. Contrary to the preliminary decree passed in O.S.No.40 of 1985 dated 20.09.1995, A1 executed settlement deed in favour of A2. A2, in turn executed settlement deed in favour of A3. Based on the complaint, the first respondent registered a case in Cr.No.38 of 2012. Upon completion of investigation, the first respondent filed a charge sheet for the offence punishable under Sections 420, 465, 468, 471 IPC @ 420, 423, 465, 468,



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471 IPC, which was taken cognizance by the Special Court for Land Grabbing Cases, Tirunelveli in C.C.No.1023 of 2019. Challenging the same, the present petition has been filed.

3.The learned counsel appearing for the petitioners submitted that the settlement deed executed by A1 was produced before the civil Court and subsequently, the first petitioner cancelled the settlement deed executed by his mother in favour of him and re-transfer the property in favour of A1. Even thereafter, the second respondent filed the present criminal complaint, which is not sustainable one. All the allegations levelled as against the petitioners are civil in nature and still civil suit is pending between the parties. Accordingly, he prayed to quash the impugned charge sheet.

4.The learned counsel appearing for the second respondent submitted that the respondent is the brother of A1 and contrary to the preliminary decree passed by the trial Court, A1 executed settlement deed in favour of A2. A2, in turn executed settlement deed in favour of A3. He further submitted that subsequent to the cancellation of



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settlement deed, again, the first petitioner had re-transferred the property in favour of A1, which is not sustainable one. Accordingly he prayed to dismiss the present petition.

5.The learned Government Advocate(Crl.side) appearing for the first respondent would submit that the first respondent has conducted a fair investigation and after examining the necessary witnesses and collecting all materials, he has filed the final report, which has been taken cognizance of by the court below. He further submitted that a criminal proceedings cannot be quashed at the threshold and accordingly, he prayed to dismiss the present petition.

6.Heard the learned counsel on either side and perused the materials available in the records.

7.It is seen that there was some civil dispute between the parties and a suit is also pending, in which, a preliminary decree was passed on 20.09.1995. It is alleged that contrary to the preliminary decree, A1 executed settlement deed in favour of the first petitioner herein. The first



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petitioner, in turn, executed settlement deed in favour of the second petitioner. Subsequent to that the first petitioner cancelled the settlement deeds and re-transferred the property in favour of A1.

8.It is also seen that preliminary decree alone passed in O.S.No.40 of 1985 and the same is still pending for passing final decree. The property stands in the name of A1 is subject to the result of the suit in O.S.No.40 of 1985. In view of the above and also considering the fact that the petitioners cancelled the disputed settlement deeds, this Court is inclined to quash the impugned charge sheet. Accordingly, charge sheet in C.C.No.1023 of 2019 on the file of the Special Court for Land Grabbing Cases, Tirunelveli is hereby quashed.

9.In the result, this criminal original petition is allowed. Consequently, connected miscellaneous petitions are closed.

**06.03.2024**

NCC : Yes / No  
Index : Yes / No  
Internet : Yes / No  
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**M.DHANDAPANI,J.**

gns

To

- 1.The Special Court for Land Grabbing Cases,  
Tirunelveli.
- 2.The Inspector of Police,  
Anti Land Grabbing Special Cell,  
Nagercoil, Kanyakumari District.
- 3.The Additional Public Prosecutor,  
Madurai Bench of Madras High Court,  
Madurai.

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