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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON : 19.02.2024

PRONOUNCED ON : 05.03.2024

CORAM

THE HON'BLE MR.JUSTICE SATHI KUMAR SUKUMARA KURUP

CrI.O.P (MD) Nos.6038 and 22311 of 2023

and

CrI.M.P.(MD) Nos.5283 and 17450 of 2023

CrI.O.P.(MD) No.6038 of 2023:

1.Siva Anbu

2.Deepika

3.Rashmi

4.Abinisha

..Petitioners

vs

1.The Inspector of Police,
District Crime Branch Police Station,
Tirunelveli District.
Crime No.19 of 2021

2.Kumaran @ Nainar Kumar

...Respondents

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C, praying to call for the records pertaining to the charge sheet in CC.No.2475 of 2022 on the file of the learned Judicial Magistrate No.I, Tirunelveli,



Tirunelveli District in Crime No.19 of 2021 dated 31.08.2021 on the file of the Respondent No.1 and quash the same as illegal against the Petitioners.

For Petitioners : No appearance

For R1 : Mr.B.Thanga Aravindh
Government Advocate (Crl.side)

For R2 : Mr.M.T.Arunan

Crl.O.P.(MD) No.22311 of 2023:

B.Deepika ..Petitioner

vs

1.The Inspector of Police,
District Crime Branch,
Tirunelveli District.
Crime No.19 of 2021

2.Kumaran @ Nainar Kumar ...Respondents

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C, praying to call for the records pertaining to the charge sheet in CC.No.2475 of 2022 on the file of the learned Judicial Magistrate No.I, Tirunelveli, Tirunelveli District in Crime No.19 of 2021 dated 31.08.2021 on the file of the Respondent No.1 and quash the same as illegal against the Petitioner.

For Petitioner : Ms.B.Deepika (party-in-person)
For R1 : Mr.B.Thanga Aravindh
Government Advocate (Crl.side)



For R2 : Mr.M.T.Arunan

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COMMON ORDER

Crl.O.P.(MD) No.6038 of 2023:

Mr.T.Lajapathi Roy, learned Senior Counsel, assisted by Mr.R.Rajeshkumar, learned Counsel for the Petitioners in Crl.O.P.(MD) No. 6038 of 2023, submits that the Petitioners' father had sold the property to an extent of 3 acres in 2001. At that time, the party-in-person now before this Court, B.Deepika, was aged 14 years. Rashmi, the second daughter was aged 11 years. The third daughter, Abinisha was 9 years old. He would further submit that the second Respondent had given a complaint to the Superintendent of Police, Kanniyakumari District, in which he had stated that the Complainant/the second Respondent in this case had sought records and documents from the Petitioners herein to know the exact extent of the property, that is likely to be sold. He came to know that the extent is lesser than 13 acres. The Petitioners herein had refused to part with the documents. Due to COVID-19 lockdown, the second Respondent/Complainant could not divide the property as house sites and the people did not come forward to purchase the property. Therefore, the



real estate business was in a slow down due to the restrictions imposed by the Government considering the COVID-19 lockdown.

2.Since the general election was declared, the parties were unable to take money with them. After the election, normal situation returned. Therefore, the second Respondent/the *defacto* Complainant had decided to sell the lands. The *defacto* Complainant approached the Petitioners for sale of the property after lay out as house sites, for which he had obtained 1 Crore from various sources and handed over the same to the Petitioners. He had been paying interest at Rs.13,000/- for the loan received from various persons. Therefore, he requested the Deputy Superintendent of Police, Nagercoil to summon the Petitioners and persuade them to sell their property in his favour and also requested him to register cases against the Petitioners for not heeding to the advise of the Deputy Superintendent of Police to execute the sale deed in favour of the second Respondent/*defacto* Complainant.

3.Since the Deputy Superintendent of Police, Nagercoil refused to take action against the Petitioners, the second Respondent/*defacto*



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Complainant had subsequently preferred the same complaint to the Anti Land Grabbing Cell, Tirunelveli. He was successful there to get the case registered against the Petitioners. It is nothing but misusing the official position to execute the plans, which are against the settled proposition of law. When the dispute is with regard to sale agreement and sale of property based on the sale agreement, the attempt of the *defacto* Complainant to covert the suit for specific performance of contract for sale into a criminal case is unacceptable and illegal as per the reported ruling of the Hon'ble Supreme Court in the case of ***State of Haryana vs. Ch. Bhajan Lal*** reported in ***(AIR) 1992 SC 604***). A simple suit for specific performance had been converted into a criminal case only to exert pressure on the Petitioners, so that based on the criminal case, their career are affected and using it as a tactics to attain unlawful gain.

4. The learned Senior Counsel for the Petitioners in CrI.O.P.(MD) No. 6038 of 2023 invited the attention of this Court to the statement of the Complainant/the second Respondent under Section 161 Cr.P.C., in which it is stated that the first Petitioner's father, Balachandran, had as per sale deed dated 10.09.2000 through Doc.No.1988/2000 sold the property to



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Kangaikondan Lakshmi Flower Mill. Further, he had sold the properties in S.No.1266/3B, as per sale deed dated 08.01.2001 bearing Doc.No.29/2001 to Kangaikondan Lakshmi Flower Mill. Similarly, the said Balachandran sold the lands in S.No.1225/3, 38 cents, to Kangaikondan Lakshmi Flower Mill through Doc.No.657/2001. Out of 13 acres and 59 cents, 3 acres and 1 cent were sold by Balachandran.

5.On 10.02.2020, the *defacto* Complainant had entered into an unregistered sale agreement. When the *defacto* Complainant/the second Respondent wanted to enter into the sale agreement agreeing to sell the properties belonging to the Petitioners, the Petitioners had only delayed the transactions. Subsequently, the Petitioners refused to execute any sale deed in favour of the second Respondent. When the Petitioners refused to return the sale agreement amount, the Petitioners challenged the second Respondent that they could do anything but they are not willing to repay the amount. Only at that stage, the second Respondent came to know that the Petitioners had colluded and misappropriated Rs.65,00,000/- paid by him to the Petitioners.



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6. On consideration of the said averments, it is clear that it is a case of specific performance of contract for sale, for which the aggrieved party has preferred the suit for specific performance of contract, for which the second Respondent ought to have registered the sale agreement deed on payment of appropriate fee for registration. Therefore, he was forced to file a criminal complaint, as though the Petitioners herein by their conduct caused loss to the second Respondent/*defacto* Complainant. He has exerted pressure on the family members, who are all women, educated and employed in Government services using the criminal case to threaten them and to execute the sale of the property for him to earn his business as a real estate business and to force the Petitioners to part with valuable property for the benefit of the *defacto* Complainant, who is a real estate Broker. Only when the land owners have interest in selling the property, a person, like the *defacto* Complainant/second Respondent can enter into the sale agreement and face the cases, whereas the Petitioners are highly educated and are serving in Government services. They are threatened with criminal cases, which is actually converted from civil case into a criminal case by misusing their relationship in the Police Department.



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7.The learned Senior Counsel for the Petitioners in Crl.O.P.(MD) No. 6038 of 2023 relied on the reported ruling of the Hon'ble Supreme Court in the case of ***State of Haryana vs.Ch.Bhajan Lal*** reported in ***(AIR) 1992 SC 604***), wherein guidelines had been issued to the High Courts not to exercise the powers under Section 482 Cr.P.C. liberally. The party, who claims that valuable defense is available, shall contest the case, so that the cross-examination is to be put to the witnesses. By using the status of the Petitioners that there is no moral support from the male members in the family, the second Respondent attempts to force the Petitioners to part with the property. Before ever registering the case as it involved civil dispute warranting suit for specific performance of the contract for sale, the second Respondent has not taken any notice to the Petitioners herein warning them of the consequences of not executing the sale deed in favour of the second Respondent. It is only a civil case, that had been converted cleverly by clever drafting.

8.The learned Senior Counsel for the Petitioners in Crl.O.P.(MD) No.6038 of 2023 relied on the reported ruling of the Hon'ble Supreme Court in the case of ***Randheer Singh Vs. State of Utter Pradesh and others***



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reported in **2021 SCC Online SC 942**, wherein the case of similar nature was disposed of by the Hon'ble Supreme Court observing as follows:-

“33. In this case, it appears that criminal proceedings are being taken recourse to as a weapon of harassment against a purchaser. It is reiterated at the cost of repetition that the FIR does not disclose any offence so far as the Appellant is concerned. There is no whisper of how and in what manner, this Appellant is involved in any criminal offence and the charge sheet, the relevant part whereof has been extracted above, is absolutely vague. There can be no doubt that jurisdiction under Section 482 of the Cr.P.C. should be used sparingly for the purpose of preventing abuse of the process of any court or otherwise to secure the ends of justice. Whether a complaint discloses criminal offence or not depends on the nature of the allegation and whether the essential ingredients of a criminal offence are present or not has to be judged by the High Court. There can be no doubt that a complaint disclosing civil transactions may also have a criminal texture. The High Court has, however, to see whether the dispute of a civil nature has been given colour of criminal offence. In such a situation, the High Court should not hesitate to quash the criminal proceedings as held by this Court in Paramjeet Batra (supra) extracted above.”

9. In the light of the said judgment, the learned Senior Counsel for the Petitioners in CrI.O.P.(MD) No.6038 of 2023 seeks to quash the charge



sheet filed by the first Respondent pending on the file of the learned Judicial Magistrate No.I, Tirunelveli in CC.No.2475 of 2022.

10.The learned Counsel for the second Respondent had stoutly opposed the submission of the learned Senior Counsel for the Petitioners in CrI.O.P.(MD) No.6038 of 2023. It is the contention of the learned Counsel for the second Respondent/*defacto* Complainant that the agreement was on 10.02.2020. The complaint was given on 31.08.2021. After 1½ years, the charge sheet was filed on 27.10.2022. A petition is filed by the learned Counsel for the Petitioners. Once the petition is filed through the Counsel, the party-in-person can file a petition. Once all the Petitioners having been signatories, it is their duty to clear the sale agreement. The Petitioners had not disputed the fact that they have received money. The Petitioners have ulterior motive to quash the FIR. Meanwhile, 4 years passed. The value of the property had also increased several times. The conduct of the parties amounts to cheating. That is the observation made by the learned single Judge of this Court, while considering the bail application. When the Petitioners moved anticipatory bail, this Court in CrI.O.P.(MD) No.13077 of 2021, vide order dated 12.01.2022 had observed that it is a matter for



investigation. Also, in the order, the then learned Judge of this Court had observed as under:-

“2.The petitioners are facing the charges for the offences punishable under [sections 406](#) and [420](#) IPC. Finding that it is the civil dispute, the matter was referred to the Mediation and Conciliation Centre. On that ground, the interim protection was granted and it was periodically extended also.

3.When the matter was taken up on 04/01/2021, the learned counsel appearing for the petitioners would submit that the petitioners are ready to deposit the advance amount of Rs.65,00,000/-, which was received from the de-facto complainant. But the de-facto complainant demanded Rs.1 Crore. That was the issue for non settlement of the issue in the mediation.

4.Now allegation of the de-facto complainant is that a portion of the property, belonged to the accused persons was already sold to some other party. Suppressing the same, the accused persons entered into sale agreement with the de-facto complainant. According to the de-facto complainant, this is a clear case of forgery and cheating.

5.The unregistered sale agreement is also enclosed in the typed set of papers, wherein we find that the accused persons as one party entered into a sale agreement with the de-facto complainant showing him as other party, wherein it has been stated that the property originally belonged to the husband of A1 namely Balachandran. Later the above said property came as a joint property of all the petitioners and some other properties were also purchased by the individual name



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of A1 namely the 1st petitioner herein. The total sale consideration was fixed at Rs.4.32 Crores and advance amount of Rs.25,00,000/- was paid and the remaining amount was ordered to be paid within a month. It is also agreed that the property can be sold in pieces. Subsequent endorsement shows that, totally Rs.65,00,000/- was received by the petitioners against the above said sale agreement till 17/12/2020. What happened after that, is not clear on record. On 31/08/2021 the de-facto complainant gave a complaint stating that all the accused persons indulged in forging and cheating etc. It has been voluntarily stated that in view of cheating the de-facto complainant, they entered into the sale agreement. In what way, the petitioners cheated the de-facto complainant is not clear on record. It is a matter for investigation also.

6.Since the petitioners have come forward to deposit the amount, which was received from the de-facto complainant, I am of the considered view that considering the age of the petitioners as well as considering the fact, all the petitioners are women, this Court is inclined to grant anticipatory bail to the petitioners with certain conditions.

7.Accordingly, the petitioners are ordered to be released on bail in the event of arrest or on their appearance before the learned Judicial Magistrate No.I Tirunelveli and on each of them executing a bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) with two sureties each for a like sum to the satisfaction of the learned Magistrate concerned and on further condition that the petitioners must deposit a sum of Rs.65,00,000/- (Rupees Sixty Five Lakhs only) to



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the credit of the Crime No.19 of 2021 before the learned Judicial Magistrate, No. 1, Tirunelveli and on further condition that the petitioners shall appear before the respondent police once in 15 days at 10.00 a.m. until further orders. The petitioners shall comply with the condition stipulated under [Section 438 Cr.P.C.](#) scrupulously. The petitioners shall appear before the concerned Magistrate within a period of 15 days from the date on which the order copy made ready, failing which, the petition for anticipatory bail will stand dismissed.”

11.It is the further contention of the learned Counsel for the second Respondent/*defacto* Complainant that the Petitioners, who are poor people, do not have the capacity to deposit Rs.65,00,000/-. The Petitioners herein have ulterior motive not to execute the sale deed. The value of the property increased several time. The conduct of the Petitioners amounts to cheating. The second Respondent had not stated about the earlier proceedings. The claim of the Petitioners is unacceptable, in the light of the complaint, wherein the Petitioners had received the amount, but did not express their inability to execute the sale deed in favour of the second Respondent/*defacto* Complainant.



Crl.O.P.(MD) No.22311 of 2023:

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12.The party-in-person, B.Deepika, is the Petitioner in Crl.O.P.(MD) No.22311 of 2023. As per her submissions, she had filed Crl.O.P.(MD) No. 22311 of 2023 to quash the charge sheet in CC.No.2475 of 2022 pending on the file of the learned Judicial Magistrate No.I, Tirunelveli. It is her contention that she was not enquired by the first Respondent before filing of the final report. It is her further contention that she had been employed in the Office of the District Collector, Kanniyakumari District for the past 7 years. She was appointed as Assistant Grade-II in 2017. Now, she had cleared the exams for Assistant Section Officer.

13.It is her submission that the second Respondent herein had converted a civil case into a criminal case using his influence to threaten the Petitioner, her sisters and her mother to part with valuable property fetching more than Rs.4 Crores at the relevant point of time. It is her case that her father died 10 years back. The second Respondent herein offered to purchase the property belonging to the Petitioner's family. He offered to purchase it for Rs.2,00,000/- and odd and paid a sum of Rs.65,00,000/-. The



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Petitioner's mother received the amount. Subsequently, the second Respondent did not pay. Instead, he had instituted a complaint with the first Respondent for furnishing wrong information to purchase the property. The properties have an extent of 13 acres. The second Respondent had, on measuring the property, found out that 3 acres were missing. Therefore, suspecting the same, he had engaged a Surveyor. The Surveyor after measuring the property informed the second Respondent that the property is less than 13 acres. It is only 10 acres on the ground. Therefore, he had lodged the complaint that the Petitioner, her sisters and her mother falsely made a representation that the property is valuable property and has extent of 13 acres, whereas on the ground, it was only 10 acres. Using this as a weapon, the second Respondent had instituted the complaint with the first Respondent.

14. The Petitioner/party-in-person invited the attention of this Court to the instant FIR, which was registered promptly after registration of the complaint. Misusing the criminal complaint, the Petitioner, her sisters and her mother are threatened with this criminal complaint, so that they will part with huge extent of the property, which fetches Rs.20 Crores as on today.



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The Petitioner's family made up their mind not to sell the property. They had also informed the second Respondent to receive the money paid by the 2nd Respondent to the mother of the Petitioner. The second Respondent was not willing. He wanted the property. He also held out threat that he will see that the Petitioner's family members are arrested and they loose their job in Government service. The Police had filed the final report showing the Petitioner, her sisters and her mother as absconding accused. The Police had not verified whether the Petitioner/party-in-person is serving as Assistant in the office of the District Collector, Kanniyakumari District. They had recorded the statements, which are against the second Respondent. If the Petitioner is to be stated as accused, the second Respondent is also to be stated as accused. The second Respondent has to inform the Income Tax Authorities as to how he had arrived at Rs.17,00,000/- for the purchase of the property. Misusing the status of the Petitioner, her sisters, and her mother as helpless family members, after the death of the father of the Petitioner, the case had been instituted.

15.It is the case of the Petitioner/party-in-person that the Police have no power to survey the land and find out the extent. It is to be decided by



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the Civil Court. The subject matter of the transaction involving the Petitioner and the second Respondent ought to have been referred to the Civil Court for appropriate relief. Instead, the second Respondent had lodged a complaint, based on which a false FIR was registered. The charge sheet was laid before the Court of the learned Judicial Magistrate No.I, Kanniyakumari (previously with the Special Court for Anti Land Grabbing Cases). The criminal Court has no power to find out as to whether the Petitioner herein, her siblings and her mother had proper title and were in possession of 13 acres or 10 acres. While so, no purpose will be served by converting the civil case into a criminal case. Therefore, in the light of the reported ruling of the Hon'ble Supreme Court in the case of ***State of Haryana vs.Ch.Bhajan Lal*** reported in ***(AIR) 1992 SC 604***, the charge sheet is to be quashed.

16.The learned Counsel for the second Respondent would submit that the Petitioner in both the Petitions are educated, Graduates and employed in various Government Departments. The second Respondent is an illiterate, semiliterate and a school drop out. He had earned the status as a businessman by doing the business in a fair manner. He had parted with Rs.



65,00,000/- for purchase of an extent of 10 acres. Believing the words of the Petitioner, the second Respondent had purchased the property. After purchase of the property, the second Respondent after applying the Firka Surveyor had paid fees for Surveyor to measure the property. At that time, it was found that the properties sold by the Petitioner, her siblings and her mother to the second Respondent were not free from encumbrances. The extent was more. The extent sold was only 10 acres, whereas the sale deed mentions that it is 13 acres.

17.It is his further submission that on measurement, it was found that 13 acres was not available on the ground. Out of 13 acres, 3 acres were found missing and the second Respondent showing his *bona fide* had paid Rs.65,00,000/- expecting that the Petitioner, her siblings and her mother will execute the sale deed, but they did not come forward to execute the sale deed. After issuance of lawyer's notice, they did not send reply. Therefore, the second Respondent was forced to file the complaint. The Petitioner, her siblings and her mother were aware that the second Respondent had instituted the complaint, based on which the FIR was registered. Therefore, the Petitioner moved the Court for anticipatory bail. At that time, the then



learned Judge of this Court had directed the Petitioner's family to deposit Rs.65,00,000/-. They did not deposit the amount as was directed by the Court. Subsequently, they filed a Petition seeking extension of time to deposit the money as directed by this Court. Accordingly, they had deposited Rs.65,00,000/- on the file of the learned Judicial Magistrate, Eraniel. Now, the second Respondent is ready to purchase the property. Till date, the Petitioner, her siblings and her mother are not willing to part with the valuable money. The Petitioner had been granted time by the Court to fulfil the conditions. Subsequently, the learned Judge of this Court had referred the matter to mediation. There also, the Petitioner, her siblings and her mother did not co-operate. Therefore, once again the case was posted before this Court.

18.The claim of the Petitioner/party-in-person that she was not aware of the pending case is not true. They were aware. Even though the second Respondent offered to purchase the property for the present value, the Petitioner was not willing to sell the property. The contention of the Petitioner that she, her siblings and her mother were not aware is not truth. It is a false claim by the Petitioner. The Petitioner, her siblings and her



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mother are highly qualified and employed in various Government Departments, whereas the second Respondent is a semiliterate, illiterate and successful businessman. He had been cheated by the Petitioner's family. Therefore, a full-fledged trial had to be conducted. After the end of the trial, the Petitioner and her family members are to be convicted. There is no valuable reason to refer the subject matter to mediation. The Petitioner's family engaged a Counsel. Subsequently, for the reasons best known to the Petitioner, she had approached this Court without engaging a Counsel to argue the case. Therefore, the second Respondent raises vehement objection to quash the FIR as well as the final report, as the second Respondent parted with huge amount and was misled to believe that the property belongs to the Petitioner. The Petitioner, her siblings and her mother suppressed the fact that 3 acres of property was already sold. Therefore, these Petitions seeking to quash the FIR and the final report laid by the first Respondent are found unacceptable, in the light of the reported ruling of the Hon'ble Supreme Court, wherein directions were issued to the Trial Courts and High Courts not to quash the FIR. Therefore, the learned Counsel for the second Respondent sought dismissal of these Petitions with a direction to the



learned Judicial Magistrate, Eraniel, to dispose of the case within the reasonable time of 3 months.

19. On consideration of the rival submissions, it is found that the Petitioner, her siblings and her mother had entered into a sale agreement deed with the second Respondent, who is a businessman and is a matriculate. The Petitioners are employed in various Departments of the Government. The Petitioner's mother is also educated and graduate, whereas the second Respondent is a businessman. He wanted the property, for which the Petitioner's family objected to. It is not a registered sale agreement deed. While so, the Petitioners were taken by surprise in getting summons from the Court. Therefore, they had approached this Court to quash the Charge Sheet as well as the FIR.

20. On perusal of the sale deed, it is found that the sale deed was executed by the Petitioner/party-in-person herein for valuable consideration of Rs.65,00,000/-. If the party to the sale agreement is not willing to compromise, the police had to lay the final report before the Court concerned. Instead, the Police had registered a case, conducted enquiry



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promptly and laid the final report before the Court concerned. It is the contention of the Petitioner/party-in-person that she was assisted by her staff. When the sale deed had been executed claiming four side boundaries, the property is identified with boundaries. Therefore, the boundaries prevail over the extent, for which the Petitioner and her family members cannot be threatened by use of force. The contention of the Petitioner/party-in-person is found justifiable, considering the fact that the property was sold by the Petitioner, her siblings and her mother for the daily necessities.

21.As pointed out by the Petitioner/party-in-person, it is an unregistered sale deed, in which the recitals are found stating that the property does not suffer from any encumbrances. The sale agreement is itself an unregistered document. It has no validity. If the Petitioner is ready and willing, if the Defendant offers to sell the property, no one can force the seller to part with the property. The submission of the learned Counsel for the second Respondent that the Petitioner, her siblings and her mother had to stand trial cannot at all be accepted, considering the circumstances of the case that the status of the Petitioner's mother as a widow and no one is taking care of her had prompted the Respondent Police to register the case,



so that the Petitioner will be threatened, coerced to part with valuable properties to the benefit of the second Respondent.

22.As pointed out by the Petitioner, it is an unregistered sale agreement deed. The unregistered sale agreement deed cannot be pressed into service for instituting the suit for specific performance for execution of sale deed for the property. If the Seller had not come forward, the Buyer ought to have instituted the suit for specific performance by depositing the amount mentioned in the sale deed for specific performance of contract for sale. The second Respondent had not done so. Instead, he had preferred a complaint that the Petitioner's father had committed forgery and fraud. Since the father of the Petitioner died, this criminal case had been instituted by the second Respondent with an ulterior motive that the Petitioner and her family members will be scared of the second Respondent and will move away. The submission of the Petitioner/party-in-person is found justified, as the Petitioner is continuously working for the past 7 years in the District Collector's Office.



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23.While so, filing of the criminal complaint as a weapon to threaten the family members, who does not have male members in the family is found unacceptable. The circumstance in the family of the Petitioner is exploited by the Police to file absconding charge sheet. The contention of the Petitioner/party-in-person is found justified regarding the power of the Civil Court cannot be exercised by the criminal Court. Therefore, if these Petitions are dismissed, the Petitioners are expected to co-operate with the Court. Even if they co-operate, the criminal Court is unable to give a finding regarding the readiness and willingness of the purchaser for executing the sale deed by the Seller. If the second Respondent had instituted the suit for specific performance, they could have avoided the waste of time and the trial could have concluded by now. They had not done so. The reasons are for the second Respondent to owe an explanation for not preferring any civil suit for enforcement of the sale agreement deed.

24.The learned Counsel for the second Respondent failed to answer the query of this Court. It amounts to admitting the suggestion of the learned Judge. In *Randheer Singh Vs. State of Uttar Pradesh and others* reported in **2021 SCC Online SC 942**, the Hon'ble Supreme Court had held



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that the civil litigations had been converted into criminal cases only with an intention to cause harassment to the Petitioners, who are all female members. Only when the Petitioners moved anticipatory bail, the learned Judge of this Court had directed the Petitioners to pay Rs.65,00,000/-. The *defacto* Complainant wanted only the land and not the money back. Therefore, the complaint had been registered. When the earlier complaint before the Kanniyakumari Police was not acted upon, the *defacto* Complainant had preferred the complaint to the first Respondent herein with an understanding to exert pressure on the Petitioners to heed to the whims and fancies of the Petitioners. The judgment relied on by the learned Counsel for the second Respondent/*defacto* Complainant is found unacceptable in the facts and circumstances of the case.

25.The submission of the learned Counsel for the second Respondent is found unacceptable, considering the fact that the FIR was the spot FIR immediately on receipt of the complaint. The submission of the Petitioner/party-in-person is that the second Respondent gave the complaint with the District Crime Branch, Kanniyakumari, which was refused by the District Crime Branch stating that it is purely a civil dispute. Therefore, the



second Respondent approached the District Crime Branch, Tirunelveli and had given a complaint, based on which immediately the FIR had been registered. Without seeking the help of Revenue Officials and survey Officials, the police themselves conducted the survey of the lands. Without getting any orders from the learned Judicial Magistrate, the Investigation Officer and his team of Officers themselves measured the property and found out that 3 acres were already sold 20 years back, for which the Petitioners cannot be held liable.

26.As pointed out by the Petitioner/party-in-person, the second Respondent herein has influence and money power. Using that, he threatened the Petitioners. All the Petitioners are employed in Government Departments. Therefore, the criminal case will affect their career. That is why, the Petitioners had approached this Court to quash the criminal complaint. In the reported ruling of the Hon'ble Supreme Court in the case of *State of Haryana vs.Ch.Bhajan Lal* reported in (AIR) 1992 SC 604), guidelines had been issued regarding the extraordinary powers of the High Courts that quash of charge sheet had to be used sparingly. One of the conditions is that the complainant in the criminal case attempts to convert



the civil dispute into a criminal dispute. Here, the case was registered under Section 406 IPC. Subsequently, many Sections of law were invoked and alteration report was also filed before the Court of the learned Judicial Magistrate.

27.As pointed out by the learned Senior Counsel for the Petitioners in CrI.O.P.(MD) No.6038 of 2023, the second Respondent/*defacto* Complainant had approached the Petitioners for purchase of the property and to lay it as house sites. At that stage, all the businesses suffered due to COVID-19 lock down. Subsequently, after restrictions were cordially removed after COVID-19 lock down, the *defacto* Complainant/the second Respondent sought to execute the sale deed. At that stage, the Petitioners refused to sell the property, as it fetches huge amount. When the second Respondent sought his money back, the Petitioners refused to part with stating that the second Respondent/*defacto* Complainant had not come forward for purchase of the property within the time stipulated by both the parties. Therefore, the Petitioners refused to part with the amount. Instead of insisting the suit for specific performance through the civil Court, the second Respondent/*defacto* Complainant had approached the Inspector of



Police, District Crime Branch, Kanniyakumari for insisting the Petitioners to part with the property. The Inspector of Police, District Crime Branch, Kanniyakumari on perusal of the complaint refused to register it stating that it is purely civil in nature.

28. Under those circumstances, the second Respondent/*defacto* Complainant had approached the Inspector of Police, District Crime Branch, Tirunelveli and got it registered against the Petitioners. The District Crime Branch, Tirunelveli had not approached the Revenue Authorities or the Survey Department of the Government of Tamil Nadu to measure the properties or to obtain encumbrance of the property. Instead, the Anti Land Grabbing Police, Tirunelveli had measured the property, which is found unacceptable, as the Investigation Officer does not have the power to decide the civil dispute regarding boundaries, extent or powers of the Revenue Officials.

29. Also, it is to be noted that the Inspector of Police, District Crime Branch, Tirunelveli had not at all clarified or examined the Petitioners herein, the so called accused to find out the truth. Without examining them,



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they had filed charge sheet, as though the accused are absconding. When all the accused are the Government servants working in various Departments of the Government at Kanniyakumari and Tirunelveli, the pendency of the criminal case was brought to the knowledge of the District Collector by the first Respondent Police. If the first Respondent Police was acted fairly, they could have obtained proper sanction from the Authorities concerned to prosecute the accused and to arrest them. That was not done. Therefore, they were aware that when they proceed as per law, their powers will be questioned by the accused as well as the superior Officers. It is to be noted that the Kanniyakumari District Police refused to entertain the complaint on the ground that it is purely a civil dispute, whereas the Inspector of Police, District Crime Branch, Tirunelveli had registered the case, as though the offence is made out. Instead of seeking clarification with the accused, who are all available as Government servants in the Government Offices at Tirunelveli and Kanniyakumari Districts, they had completed the investigation without examining the accused and laid the final report as though the accused persons are absconding. That shows, they wanted to threaten the Petitioners, as there are no men members in their family, to exert pressure and to knock of the valuable property, to an extent of 10 acres



to be sold to the defacto Complainant/the second Respondent at his whimsical right, so that he can be benefited. He had advantage of dividing it as house plots in profit and thereby committing fraud on the educated women by the so called influential money power and individual, who seeks the sympathy of the Court that he is illiterate and had been cheated by the educated women in Government service. Only to get sympathy of the Court, the second Respondent is making such claim. If the petition is not allowed and dismissed with a direction to the Petitioners to face trial, they will be forced to part with valuable properties in favour of the *defacto* Complainant/second Respondent, thereby under the fear of criminal prosecution, the property will be usurped by the second Respondent/*defacto* Complainant, which amounts to playing fraud on the educated women, who are employed in Government services by misusing the provisions of the Court under Section 482 of the Code of Criminal Procedure.

30. Under those circumstances, it is to be noted that to the repeated query raised by the learned Judge of this Court to the learned Counsel for the second Respondent/*defacto* Complainant, he evaded to answer the learned Judge of this Court. That shows, the second Respondent was



motivated to cause harassment on the widow and her 3 daughters by misusing the civil case as criminal case with the help of police persons. This forum cannot be permitted to misuse under Section 482 of the Code of Criminal Procedure.

31. In the light of the judgments cited by the learned Senior Counsel for the Petitioners in CrI.O.P.(MD) No.6038 of 2023, ie., ***State of Haryana vs. Ch. Bhajan Lal*** reported in ***(AIR) 1992 SC 604*** and ***Randheer Singh Vs. State of Uttar Pradesh and others*** reported in ***2021 SCC Online SC 942***, the contention of the learned Counsel for the second Respondent/*defacto* Complainant is rejected. The arguments of the learned Senior Counsel for the Petitioners in CrI.O.P.(MD) No.6803 of 2023 is accepted in the light of the judgments cited by him. The arguments put forth by the party-in-person is also accepted.

32. On submission of the Petitioner/party-in-person and the learned Counsel for the second Respondent and on perusal of the sale deed, it is found that almost the case had been made out. Still, instead of choosing the civil forum, they sought criminal forum, which cannot at all be accepted. If



this is accepted, every illegal activity committed by the citizen of this country has to be accepted. In the light of the above, it is purely a civil case.

Therefore, the point for consideration is answered in favour of the Petitioners and against the second Respondent.

33. During the course of pendency of the interim bail application, the second Respondent had suffered. Therefore, the learned single Judge of this Court had directed the Petitioners to deposit Rs.65,00,000/-. Since the Petitioners are unable to deposit the huge amount in time, they had filed Miscellaneous Petition seeking extension of time. Under those circumstances, the submission of the learned Counsel for the second Respondent to dismiss these Petitions and to direct the trial Court to dispose of the case is found unacceptable for no fault of the Petitioners. The Petitioner, her sisters and her mother did not suffer. If there was less than 10 acres or less than 13 acres, the second Respondent was ready to purchase the property. Still, the Petitioner's family refused. They wanted to refund the money, but the second Respondent was not willing. The second Respondent wanted the property only. As pointed out by the Petitioner/party-in-person, the Police have no power to conduct the enquiry



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regarding survey and revenue records. The Petitioner claims that the second Respondent had been threatening her, her sisters and her mother, as they are Government employees. They will suffer, if they are sentenced to undergo imprisonment. That is the threat held out against the Petitioner and her family members by the second Respondent only to purchase the property, in the light of the sale agreement entered into between the Petitioner and the second Respondent. Therefore, the guidelines laid down by the Hon'ble Supreme Court in *State of Haryana vs. Ch. Bhajan Lal* reported in (AIR) 1992 SC 604 are directly applicable to the facts of these cases. The Petitions seeking quashment of the charge sheet as well as the FIR are found justified.

In the result, *these Criminal Original Petitions are allowed.* The Charge Sheet in CC.No.2475 of 2022 pending on the file of the learned Judicial Magistrate No.I, Tirunelveli, is hereby quashed. Consequently, connected Miscellaneous Petitions are closed.

Internet :Yes./No
Index :Yes/No
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05.03.2024

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To

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1. The Inspector of Police,
District Crime Branch,
Tirunelveli District.
2. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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SATHI KUMAR SUKUMARA KURUP, J.

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Order made in
CrI.O.P (MD) Nos.6038 and 22311 of 2023

05.03.2024