



CRL OP(MD)No.11251 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

Dated : 03.01.2024

CORAM

THE HONOURABLE MRS .JUSTICE R.HEMALATHA

CRL.O.P(MD)No.11251 of 2021
and
Crl.M.P(MD) No.5744 of 2021

1.A.Basith Raja

2.B.Benazir

3.N.Thasib Abrish

4.Jagin Absar

... Petitioners

Vs

1.The State Rep. by
The Inspector of Police,
District Crime Branch,
Ramanathapuram District.
(Crime No.3 of 2021)

2.Muthukannan

... Respondents

Prayer: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure to call for the records pertaining to the case in Crime No.03 of 2021 pending on the file of the Inspector of Police, District Crime Branch, Ramanathapuram District and quash the same as against the petitioners.



CRL OP(MD)No.11251 of 2021

For Petitioners : Mr.B.Anand
For R1 : Mr.S.Manikandan
Government Advocate(crl.side)
For R2 : Ms.K.Karpagam

ORDER

The present petition is filed by the petitioners to quash the FIR in Crime No.3 of 2021 of District Crime Branch, Ramanathapuram Police Station.

2. The accused 1 to 12 are charged for the offences punishable under Sections 419, 465, 468, 471, 420 and 120B IPC. The case of the defacto complainant is that the second accused Sethuraman created a forged power of attorney deed dated 28.05.2020 as if it was executed by one Chinnammal, who died in the year 1977 itself and thereafter sold the property in favour of the present petitioners (Accused Nos.5 to 8) on 29.06.2022.



CRL OP(MD)No.11251 of 2021

3. The learned counsel for the petitioners would contend that since the petitioners are subsequent purchasers for value, they are innocents and that the second accused Sethuraman annexed a Life Certificate along with the power of attorney. He also relied on the decision in ***Mohammed Ibrahim and others Vs State of Bihar and another***, reported in ***(2009)8-SCC-751*** to substantiate his contentions.

4. The contention of Ms.K.Karpagam, learned counsel for the defacto complainant is that the present petitioners are well aware of the fact that Chinnammal was no more. According to her, with a dishonest intention of grabbing the property belonging to Chinnammal, they have created a false document. She therefore prayed for dismissing the present criminal original petition.

5. A perusal of the First Information Report clearly shows that some serious allegations are levelled against the present petitioners. In fact, it is specifically contended that the second accused Sethuraman, with the connivance of the present petitioners, created forged documents and executed a sale deed in their favour. In the decision in



CRL OP(MD)No.11251 of 2021

M/s Neeharika Infrastructure Pvt. Ltd. Vs State of Maharashtra and

others, reported in ***AIR-2021-SC-1918***, the Hon'ble Supreme Court had given various guidelines in regard to exercise of powers under Section 482 of Cr.P.C by the High Courts. In the said decision, it is also held that quashing of complaint/FIR should be an exception and a rarity than an ordinary rule and the Court is not required to consider on merits, whether the allegations make out a cognizable offence or not and the Court has to permit the investigating agency/police to investigate the allegations in the FIR. As far as the present FIR is concerned, a prima facie case for the offences under Sections 419, 465, 468, 471, 420 and 120B IPC is made out.

6. The decision in ***Mohammed Ibrahim and others vs State of Bihar and another*** cited supra, may not apply to the facts of the present case, because in the instant case, the second accused Sethuraman is not the original owner of the property and he is only a power of attorney holder of late Chinnammal. It is an admitted fact that Chinnammal died even in the year 1977 and as already observed, all the petitioners have purchased the property from the second accused even without verifying



CRL OP(MD)No.11251 of 2021

whether the true owner is actually alive or not. Interestingly, it is contended that Chinnammal, who impersonated the deceased Chinnammal, was actually affected with COVID-19 and was in isolation, during the alleged execution and registration of the sale, ie. on 29.06.2020.

7. In the circumstances, I do not see any reason to quash the FIR. Accordingly, this Criminal Original Petition is dismissed. Consequently, connected miscellaneous petition is closed.

03.01.2024

Index :Yes/No
Internet :Yes/No
NCC :Yes/No
cp

To

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

5/6



WEB COPY



CRL OP(MD)No.11251 of 2021

R.HEMALATHA,J.

cp

CRL OP(MD)No.11251 of 2021

03.01.2024