



CrI.O.P.(MD)No.13367 of 2021

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 10.04.2024

CORAM:

THE HONOURABLE MR.JUSTICE A.A.NAKKIRAN

CrI.O.P.(MD) No.13367 of 2021

and

CrI.M.P.(MD).No.6927 of 2021

1.Rajesh Kumar

2.Ram Kumar

... Petitioners / Accused Nos.3 & 4

Vs.

1.The State rep by

The Inspector of Police,
Panagudi Police Station,
Panagudi, Tirunelveli District.

(Crime No.138 of 2018) ... 1st Respondent/Complainant

2.Subramanian

... 2nd Respondent/Defacto Complainant

PRAYER: Criminal Original Petition is filed under Section 482 of Cr.P.C, to call for the records in connection with C.C.No.279 of 2019 on the file of the learned Judicial Magistrate, Valliyoor, Tirunelveli District, in connection with Crime No.138 of 2018 on the file of the Inspector of Police, Panagudi Police Station, Panagudi, Tirunelveli District and quash the same in respect of the petitioners as devoid of merits and illegal.



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For petitioners : Mr.S.Palani Velayutham
For R1 : Mr.R.Sanjay Gandhi
Government Advocate (Crl.Side)
For R2 : Mr.G.Prabhu Rajadurai

ORDER

This petition has been filed to quash the proceedings in C.C.No. 279 of 2019 on the file of the learned Judicial Magistrate, Valliyoor, Tirunelveli District.

2. The case of the prosecution is that A1 and A2 are the husband and wife. A3 & A4 / the petitioners herein are the sons of A1 & A2. A1 & A2 are having properties in their native place. In order to purchase the same from A1 & A2, the defacto complainant paid a sum of Rs.1,95,00,000/-. Thereafter, he came to know that, the accused have received consideration from so many persons with an intention to sell the same properties and also had executed unregistered documents. Thereby, the defacto complainant lodged a complaint before the respondent police and the same was registered in Crime No.138 of 2018 for the offence punishable under Sections 406 & 420 of IPC. The respondent police conducted the investigation and after completion of investigation, filed



charge sheet before the learned Judicial Magistrate, Valliyoor, Tirunelveli District, and the same was taken on file in C.C.No.279 of 2019 for the offence punishable under Sections 406 & 420 of IPC. Aggrieved against the same, present petition has been filed.

3. The learned counsel appearing for the petitioners submitted that the petitioners are innocent and a false case has been foisted against the petitioners. He further submitted that the petitioners are neither the owner of the properties nor entering into any agreement with the defacto complainant for selling the properties. The petitioners herein are the stranger to the transaction between the defacto complainant and A1 & A2. The petitioners appear to have received a sum of Rs.1,70,000/- for their educational purpose and the petitioners are no way connected to the transaction with the first accused and the defacto complainant. Accordingly, he prayed to quash the impugned charge sheet.

4. The learned Government Advocate (Crl. Side) appearing for the first respondent submitted that there are materials available to proceed with the case as against the petitioners herein and at the threshold, the criminal proceedings cannot be quashed and the charges against the petitioners have to be gone into only at the time of trial and hence, he prayed for dismissal of the petition.



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5. Heard the learned counsel appearing for the petitioners, learned Government Advocate (Crl.Side) appearing for the first respondent and the learned counsel appearing for the second respondent.

6. Time and again, this Court as well as the Supreme Court has cautioned the courts about the necessary precautions to be taken while quashing the charge sheet at the initial stage. Useful reference in this regard can be had to the decision of the Hon'ble Apex Court in ***State of Haryana – Vs - Bhajan Lal (1992 SCC (Crl.) 426)***.

7. In the above circumstances, the trial court has rightly taken the case on file and this Court is of the considered view that no prejudice would be caused to the petitioner if he is subjected to due trial as sufficient opportunity would be given to the petitioner to put forth his defence. The petitioner cannot be let by quashing the charge framed against them as that would completely undermine the alleged acts, which is the subject matter of criminal trial pending against him.

8. For the reasons aforesaid, this Court finds no ground or scope to quash S.T.C.No.468 of 2021 pending on the file of the learned Judicial



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Magistrate No.II, Nagercoil. Accordingly, this petition, being devoid of merits, is dismissed. Consequently, connected miscellaneous petition is closed.

10.04.2024

NCC : Yes/No
Index : Yes/No
Internet : Yes/No
dss

To

- 1.The Judicial Magistrate, Valliyoor,
Tirunelveli District.
2. The Inspector of Police,
Panagudi Police Station,
Panagudi, Tirunelveli District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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A.A.NAKKIRAN, J.

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