



Crl.O.P.(MD)No.15552 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 13.03.2024

CORAM:

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

Crl.O.P.(MD) No.15552 of 2022
and Crl.M.P(MD).Nos.10211 and 10212 of 2022

1.A.Ramaiah

2.A.Kandhaiah

3.A.Suresh

... Petitioners

Vs.

1.The State rep.by
The Inspector of Police,
District Crime Branch
Tirunelveli District.
Crime No.70/2009

2.V.Subbulakshmi

...Respondents

PRAYER: Criminal Original Petition is filed under Section 482 of Cr.P.C, to call for the entire records pertaining to the case in C.C.No.6 of 2017 on the file of the Special Court for Land Grabbing Cases, Tirunelveli and quash the same as against the petitioners.

For petitioners

: Mr.R.Anand

For Respondents

: Mr.P.Kottaichamy

Government Advocate (Crl.side)
for R1

Mr.S.Sathya Chidambaram
for R2



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ORDER

This Criminal Original Petition has been filed to call for the entire records pertaining to the case in C.C.No.6 of 2017 on the file of the Special Court for Land Grabbing Cases, Tirunelveli and quash the same as against the petitioners.

2. The case of the prosecution is that the defacto complainant's husband and the father of the petitioners are brothers and they have jointly run the business. The defacto complainant has purchased vast properties and changed the patta in her name. The original documents were in the custody of the petitioners' father. With the help of the original documents, the accused persons created forged sale agreement dated 15.11.2007 as if the defacto complainant has agreed to sell the properties in favour of the accused No.1, and her signature was forged/impersonated. On the strength of the forged sale agreement, the accused No.1 has filed a civil suit in O.S.No.201 of 2008 before the trial Court and the said suit was decreed. Hence, the complaint was made by the second respondent before the first respondent Police, based on which, a case in Crime No.70/2009 was registered for the offences punishable under Sections 419, 465, 467, 468, 471 and 120(b) IPC and after



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conducting the investigation, the first respondent Police filed the charge sheet before the learned Special Judge for Land Grabbing Cases, Tirunelveli and the same was taken on file in C.C.No.6 of 2017 for the offence punishable under Sections 465, 468, 471, 34 and 109 IPC.

3. The learned counsel appearing for the petitioners submits that though an allegation was made against the petitioners that the petitioners forged the signature of the defacto complainant and created forged sale agreement, the first petitioner filed a suit in O.S.No.201 of 2008 for specific performance before the learned Principal Sub Judge, Tirunelveli and the said suit was decreed on 04.02.2011, against which, the defacto complainant has preferred an appeal before the learned Principal District and Sessions Judge, Tirunelveli in A.S.No.47 of 2013 and the same was dismissed on 05.01.2021 on the ground that the signature of the defacto complainant was compared with the alleged sale agreement by the Forensic Expert and the opinion of the Forensic Expert was in favour of the petitioners. Despite the same, the first respondent Police filed a charge sheet before the trial Court. He relied on the decision of the judgment of the Hon'ble Supreme Court of India in the case of *State of Haryana – Vs - Bhajan Lal (1992 SCC (CrI.) 426)*.



4. The learned Government Advocate (Crl.side) appearing for the first respondent Police submits 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.

5. The learned counsel appearing for the second respondent submits that though the civil suit filed by the first petitioner was in his favour, the accused persons have created forged sale agreement and the signature of the defacto complainant was forged. On the strength of the forged sale agreement, the first accused obtained decree in his favour and the materials are available against the petitioners and they have to face the trial. Hence, he prays for dismissal of this petition.

6. Heard Mr.R.Anand, the learned counsel appearing for the petitioner, Mr.P.Kottaichamy, the learned Government Advocate (Crl.side) appearing for the first respondent Police and Mr.S.Sathya Chidambaram, the learned counsel appearing for the second respondent.

7. In the complaint made by the second respondent/defacto complainant, it is alleged that the petitioners have forged the signature of



the defacto complainant and created forged sale agreement dated 15.11.2007 as if the defacto complainant has agreed to sell the properties in favour of the first petitioner. However, the first petitioner has filed a suit in O.S.No.21 of 2008 before the trial Court for specific performance and during the trial, the alleged sale agreement dated 15.11.2007 was examined by the Forensic Expert and on verification of the report submitted by the Forensic Expert, it was found that the sale agreement dated 15.11.2007 is not a forged one and the suit was decreed in favour of the first petitioner, against which, the second respondent has also preferred appeal in A.S.No.47 of 2013 and the same was also dismissed. Both the parties have adjudicated the issue before the trial Court. When the very same issue was adjudicated before the trial Court, filing a criminal complaint subsequently is non-est in the eye of law. It is relevant to refer here the judgment of the Hon'ble Supreme Court of India in the case of *State of Haryana – Vs - Bhajan Lal (1992 SCC (Crl.) 426)*. This Court, time and again, has held that when the civil dispute has concluded before the civil Court, initiation of criminal complaint for the very same cause of action is non-est in the eye of law and hence, the same is liable to be quashed.



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8. Accordingly, this Criminal Original Petition is allowed and C.C.No.6 of 2017 pending on the file of the learned Special Judge for Land Grabbing Cases, Tirunelveli is quashed in respect of the petitioners. Consequently, connected miscellaneous petitions are closed.

13.03.2024

Index : Yes/No

Internet : Yes/No

ssb

To

1.The learned Special Judge for Land Grabbing Cases, 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.

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