



Crl.O.P.(MD)No.16207 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: **08.03.2024**

CORAM:

THE HONOURABLE MR.JUSTICE **M.DHANDAPANI**

Crl.O.P.(MD) No.16207 of 2022
and Crl.M.P(MD).No.10738 of 2022

1.Narendra C Savalia

2.Iyyakutty

... Petitioners

Vs.

1.The State rep.by
The Inspector of Police,
Devarkulam,
Tirunelveli District.
Crime No.153/2022.

2.Pasupathi

...Respondents

PRAYER: Criminal Original Petition is filed under Section 482 of Cr.P.C, to call for the records pertaining to FIR in Crime No.153 of 2022 on the file of the first respondent Police and quash the same as illegal.

For petitioner

: Mr.Ajmal Khan
Senior Counsel for
M/s.Ajmal Associates

For Respondents

: Mr.B.Nambiselvan
Additional Public Prosecutor
for R1
Mr.S.Vikram for R2



ORDER

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This Criminal Original Petition has been filed seeking to quash the proceedings in Crime No.153 of 2022 pending on the file of the first respondent Police, insofar as the petitioners are concerned.

2. The case of the prosecution is that the land in S.No.231, Mela Elandhaikudam Village, Maanoor Taluk, Tirunelveli District, belongs to the grandmother of the defacto complainant and the first accused is one of the grandsons of the defacto complainant's grandmother, through her daughter, namely, Vallithai and got the subject property by way of a gift deed executed by the grandmother of the defacto complainant and subsequently, the said settlement deed was cancelled by the grandmother of the defacto complainant. In the year 1984, the grandmother of the defacto complainant died. Taking advantage of the same, the accused Nos.1 to 3 sold the property in favour of the accused No.8 through the power agents/accused Nos.4 to 7, on the strength of the settlement deed which was later cancelled by the grandmother of the defacto complainant. Thereafter, the accused No.8/first petitioner herein sold the land in favour of the accused Nos.10 to 12 and windmills were erected in the said land. The accused No.9 being the then Senior Manager of Sarjan



Realities Private Limited sold the remaining portion of the land in favour of the accused Nos.13 and 14. Hence, the complaint.

3. The learned counsel appearing for the petitioners submits that the petitioners are the subsequent purchasers and have purchased the property from the main accused and filed this Criminal Original Petition mainly on the ground that the subject matter was already adjudicated before this Court in W.P(MD).No.13044 of 2022 which was filed by the defacto complainant, for a Mandamus directing the respondents 1 and 2 therein to conduct enquiry based upon the representation given by the defacto complainant on 25.05.2022 and to cancel the documents executed by the first accused in favour of some third parties. The said Writ Petition was dismissed on 08.09.2022 on the ground that the Statutory Authorities have no power to cancel the documents and deal with the properties and it can be decided only by the civil Court. However, contrary to the order passed by this Court, the respondent Police has registered a case against the petitioners based on the complaint given by the defacto complainant which is not sustainable one. Hence, he prays for quashing of First Information Report in Crime Nos.153 of 2022 registered against the petitioners alone concerned.



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4. The learned Additional Public Prosecutor 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 fairly submits that the contents in the First Information Report and the prayer sought in W.P(MD).No.13044 of 2022 are one and the same. However, this Court may grant liberty to the second respondent/defacto complainant to approach the civil Court for getting appropriate remedy.

6. From the materials available on record, it appears that the defacto complainant has already approached this Court by way of a writ petition in W.P(MD).No.13044 of 2022 seeking to cancel the documents executed by the grandmother of the defacto complainant in favour of the first accused. This Court, vide order dated 08.09.2022, dismissed the said writ petition on the ground that the issue raised in the writ petition can be decided only by the trial Court and not by the Statutory Authority and granted liberty to the second respondent to approach the competent civil



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Court. Instead of approaching the civil Court, the second respondent has made a criminal complaint before the respondent Police against the petitioners and others and the respondent Police has registered the case against them. This Court, time and again, has held that the dispute of civil nature does not convert into a criminal colour. Hence, this Court is inclined to quash the proceedings in Crime No.153 of 2022 pending on the file of the respondent Police and accordingly, it is quashed, insofar as the petitioners are concerned. However, liberty is granted to the second respondent/defacto complainant to approach the civil Court for getting appropriate remedy.

7. Accordingly, this Criminal Original Petition is allowed.
Connected miscellaneous petition is closed.

08.03.2024

Index : Yes/No
Internet : Yes/No
ssb



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To

1.The Inspector of Police,
Devarkulam,
Tirunelveli District.

2.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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M.DHANDAPANI. J.

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