



Crl.O.P.(MD).No.17224 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 11.12.2024

CORAM:

THE HON'BLE MR.JUSTICE N.ANAND VENKATESH

Crl.O.P.(MD).No.17224 of 2022

and

Crl.M.P.(MD).No.11640 of 2022

1.Senthil Kumar

2.Kuppusamy

3.Velusamy

...Petitioners/Accused 3 to 5

Vs.

1.The State,

By the Inspector of Police,

District Crime Branch(ALGSC),

Dindigul District.

...1st Respondent/Complainant

2.Krishnan @ Ramakrishnan ...2nd Respondent/L.W.1

Prayer: Criminal Original Petition filed under Section 482 of the Criminal Procedure Code, to call for the records relating to C.C No. 38 of 2019 on the file of the Special Judicial Magistrate (Special Court for Exclusive Trial of Land Grabbing Cases), Madurai in so far as the petitioner is concerned and quash the same as against the petitioners.

For Petitioners

: Mr.D.Venkatesh

For R1

: Mr.A.Albert James

Government Advocate(Crl.side)

For R2

: Mr.M.R.Sreenivasan



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ORDER

This petition has been filed to quash the proceedings in C.C.No.38 of 2019 pending on the file of the learned Special Judicial Magistrate (Special Court for Exclusive Trial of Land Grabbing Cases), Madurai (Presently transferred to the file of the learned Judicial Magistrate No.II, Dindigul) as against the petitioners.

2. The second respondent gave a complaint to the first respondent stating that the property at Survey No.19/4, measuring an extent of 1.86 acres was owned by his maternal grandfather. On his demise, it vested on his wife, who is the grandmother of the second respondent. Totally, there are six accused in this case and the petitioners have been arrayed as Accused Nos.3 to 5. The grandmother of the second respondent also got a release deed from one Mariammal on 07.01.1967. Thus, the grandmother of the second respondent became the absolute owner of the property. In the year 1980, the grandmother sold the property in Survey Nos.19/3, 20/2 and 20/3 in favour of Accused No.1. She also executed a Will dated 12.03.1984 bequeathing the property in favour of the petitioners and her mother. While so, Accused No.1 executed a settlement deed in favour of his son / Accused No.2 in the year 2006 as if



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he is the owner of the property. Accused No.2 thereafter executed the settlement deed in favour of Accused Nos.3 to 5 and conveyed an extent of five cents out of total extent of 1.84 acres. It is under these circumstances, a complaint was given and an FIR came to be registered in Crime No.131 of 2021. On completion of investigation, a police report was filed before the Sub Court for Land Grabbing Cases, Madurai, against the five accused persons for the offences under Sections 447, 463, 464, 465, 468, 471 and 420 of IPC. The Court took cognizance of the offences and issued process to the accused persons. Aggrieved by the same, the petitioners, who are arrayed as Accused Nos.3 to 5, have filed this quash petition.

3. Heard the learned counsel appearing for the petitioners, the learned Government Advocate (Criminal Side) appearing for the first respondent Police and the learned counsel appearing for the second respondent.

4. It is brought to the notice of this Court that the case was transferred from the Sub Court to the file of the learned Judicial Magistrate No.II, Dindigul. It is also brought to the notice of this Court that already six witnesses have been examined in this case.



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5. In the considered view of this Court, even though this Court generally will not exercise its jurisdiction under Section 482 of Cr.P.C., once a trial has commenced, in exceptional cases, where there are absolutely no materials and the continuation of the proceedings will result in abuse of process of law, this Court can always exercise its power and jurisdiction under Section 482 of Cr.P.C. In other words, the limitation in exercising the power is more a self restraint imposed by the Court on itself.

6. In the case in hand, the petitioners, who are arrayed as Accused Nos.3 to 5, were not even in the picture, when Accused No.1 originally became the owner of the property and subsequently, he executed a settlement deed in favour of Accused No.2. These petitioners came to the scene only in the year 2013 and obviously, they were not aware about the dispute within the family. There was a title deed standing in the name of Accused Nos.1 and 2 and therefore, they proceeded to purchase an extent of 5 cents. At the best, the petitioners can only be held to be *bona fide* purchasers and they cannot be made to undergo the ordeal of facing the trial. The respondent Police ought to have made these petitioners as witnesses in this case. Unfortunately, they have been made



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as accused and they have to face the criminal prosecution.

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7. Even if the entire materials placed on record is taken as it is, no offence has been made out against the petitioners and hence, the criminal prosecution against the petitioners cannot continue.

8. In view of the above, the proceedings in C.C.No.38 of 2019 pending on the file of the learned Special Judicial Magistrate (Special Court for Exclusive Trial of Land Grabbing Cases), Madurai (Presently transferred to the file of the learned Judicial Magistrate No.II, Dindigul) is hereby quashed insofar as the petitioners are concerned and the case can go ahead with respect to Accused Nos.1 and 2. The proceedings shall be completed within a period of three months from the date of receipt of a copy of this order.

9. In the result, this Criminal Original Petition is allowed with the above directions. Consequently, the connected miscellaneous petition is closed.

11.12.2024

Index : Yes/No

Internet : Yes/No

TSG

To



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- 1.The Special Judicial Magistrate (Special Court for Exclusive Trial of Land Grabbing Cases), Madurai.
- 2.The Judicial Magistrate No.II, Dindigul.
- 3.The Inspector of Police,
District Crime Branch(ALGSC),
Dindigul District.
- 4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.



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N.ANAND VENKATESH.J.,

TSG

**Order made in
Crl.O.P.(MD).No.17224 of 2022**

**Dated :
11.12.2024**