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IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 29.04.2025

PRONOUNCED ON : 18.07.2025

CORAM:

THE HONOURABLE MR. JUSTICE P.DHANABAL

CrI. OP(MD).No.902 of 2025
and CrI.MP.(MD)No.618 of 2025

1.Shanthi

2.K.Chandrasekar

3.Siddharth

... Petitioners

Vs

1.The State of Tamil Nadu

Rep by Inspector of Police

Kodaikanal Police Station,

Kodaikanal,

Dindigul District.

Crime No.276 of 2023.

2.Lizamma Urmese

... Respondents

PRAYER: Criminal Original Petition filed under Section 528 of BNSS, to call for the records relating to the C.C. No.21 of 2024 pending on the file of the learned Judicial Magistrate No.II, Kodaikanal, Dindigul District and quash the same as against the petitioners.

For Petitioner : Mr.K.P.S.Palanivelrajan, Senior Counsel for
M/s.K.P.S.Law Associates

For Respondents : Mr.M.Vaikkam Karunanithi, GA(CrI.Side)
for R1
: Mr.T.Lajapathy Roy Senior Counsel for



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Mr.T.CibiChakaraborthy for R2

ORDER

This Criminal Original Petition has been filed to quash the proceedings in C.C.No.21 of 2024 pending on the file of Judicial Magistrate No.II, Kodaikanal, Dindigul District as against the petitioner.

2. The prosecution case is that the property belongs to the defacto complainant, George Mathew and one Lizamma Urmese is the power agent of George Mathew. The disputed property belongs to one Annamalai Chettair and the same was purchased by Lakshmanan Chettiar on behalf of M/s.South Travancore Plantations Ltd Company in the year 1968 and thereafter in the year 1972, the said Lakshmanan Chettiar sold the property situated at Dindigul District, Kodaikanal Taluk, Kodaikanal Town, New Convent Road, comprised in Old Survey No.87 part correlated in Re-survey Ward C. Block No.10, T.S.No.23 to the extent of 0.39.5 hectares or 98 cents together with the houses bearing Door Nos.77, 78A, 79, 794, 80 commonly known as “North Brook” to K.S.Chandrasekaran S/o. S.N.Sankaralinga Ayyar, Virudhunagar and one Shankar S/o.Swaminathan, through sale deed dated 22.06.1972 and in Document No.470 of 1972 on the file of Dindigul District Registrar. Thereafter, K.S.Chandrasekaran and Sankar entered into an



agreement with one Lisama Urmees and she was in possession of more than 46 years. Due to non-performance of contract by the owners of the property, the said Lisama Urmees filed a suit in O.S.No.19 of 1986 before the Sub Court, Periyakulam for the Specific Performance of contract and thereafter, it was transferred to Principal Sub Court, Dindigul in O.S.No.373 of 1992 and the same was decreed in favour of the Lisama Urmees. The said Sankar S/o.Swaminathan also filed a suit in O.S.No.439 of 1992 as against Lisama Urmees and both the appeals in Tr. A.S.No.1137 of 2001 and A.S.No.293 of 1997 were ended in favour of Lisama Urmees. Thereafter, the said Shankar filed SLP before the Supreme Court in Civil Appeal Nos.2819 to 2820 of 2011 and the same was referred to Tamilnadu Mediation and Conciliation Centre.

2.1. Pending Appeals, the said Sankar died and his wife Jeyanthi has already given the land to the extent of 13.5 cents to the said Sankar. While so, in order to grab the property of Jayanthi, Naidupuram Shankar and his son-in-law A2- Chandrasekar, daughter Shanthi - A1 and A3 – Siddharth, son of A1 and A2 claimed that the property referred to in Document No.470 of 1972 belongs to them and the said document was misplaced and lodged a complaint and obtained a Non Traceable Certificate. Thereafter they made the paper publication about the misplacement of the document. Thereafter, the



said Sankar on 06.01.2012 executed a settlement deed in favour of A1-Shanthi and in the said document A6- Krishnaswamy and A7- Ganesan attested as witnesses and A4 document writer created the forged document. Besides, the said Sankar S/o.Swaminathan, was belongs to Kerala but the settlement deed was executed by one Sankar belongs to Naidupuram. On 10.04.2013, the second accused executed the settlement deed in document No.647 of 2013, in favour of A.Shanthi and Late Shankar and one Siddharth - A3 witnessed the said document. The document writer A5-Marudhupandian created the document. Thereafter, the first petitioner obtained ex-parte decree before the Judicial Magistrate, Kodaikanal. While so, the accused 1 to 3 who are the petitioners herein, trespassed into the house of the defacto complainant and caused damages to the compound fence and also threatened her with dire consequences. Therefore, the defacto complainant lodged a complaint before the first respondent police and registered a case in Crime No.276 of 2023 and thereafter, the first respondent conducted investigation and filed a final report before the Judicial Magistrate No.II, Kodaikanal and the same was taken cognizance in C.C.No.21 of 2024. Now, the petitioners have challenged the said proceedings through this Criminal Original Petition.

3. The learned Senior Counsel appearing for the petitioners would submit that the 2nd respondent lodged a false complaint against the petitioners alleging that the petitioners trespassed into the house of the defacto



complainant and damaged the compound fence and caused criminal intimidation. The first respondent registered a case in Crime No.276 of 2023 and thereafter the first respondent filed the charge sheet and the same was taken on file in C.C. No.21 of 2024 on the file of Judicial Magistrate No.II, Kodaikanal for the offences under Sections 120B, 419, 420, 468, 471, 447, 427, 506(1) of IPC. In fact, the disputed property is situated at Dindigul District, Kodaikanal Taluk, New Convent Road, comprised in Old Survey No. 87 part correlated in Re-Survey Ward C, Block No.10, T.S.No.23 to an extent of 0.39.5 hectares or 98 cents together with the houses thereon bearing Door Nos.77, 78A, 79, 794. 80 commonly known as “North Brook”.

3.1. The said property originally belongs to one M/s.South Travancore Plantations Ltd Company and based on the resolution passed by the company in the Board Meeting dated 18.06.1972, the said property was sold by one of its Director S.A.S.Lakshmanan Chettiar to the first petitioner's father namely S. Sankar and her husband, second petitioner. The above said sale deed was registered on 22.06.1972 in document no. 470 of 1972 on the file of the District Registrar, Dindigul. In the said document, father names and address of the purchasers were wrongly mentioned which was not known to the 1st petitioner's father S.Sankar and her husband 2nd petitioner. Since, they are purchasers, there is no mandatory to put signature by the purchasers and they



have not verified the documents about the address. Thereafter, the first petitioner' father and the 2nd petitioner obtained separate pattas in their names in Patta No.322 and they were in joint possession and enjoyment of the properties.

3.2. He further submitted that the original sale deed dated 22.06.1972 in document No.470 of 1972 was misplaced and thereby they issued paper publication in Dhina Boomi Daily newspaper and also lodged a complaint before the Kodaikanal Police Station and obtained Non Traceable Certificate. Thereafter, the first petitioner's father namely Sankar settled his 1 / 2 share to the first petitioner by way of settlement deed dated 06.01.2012, the first petitioner's husband, 2nd petitioner settled his 1 / 2 share to the first petitioner through another settlement deed dated 10.04.2013. Thereafter, the first petitioner filed a suit in O.S.No.137 of 2013 on the file of District Munsif, Kodaikanal to declare that the plaintiff is the absolute owner of the property and the same was decreed on 10.07.2014. While so, one Lisama Urmees was given oral tenancy by the 1st petitioner's father, taking advantage of the discrepancy in the purchaser name in the earlier sale deed, the Lisama Urmees created a forgery Sale Agreement dated 06.01.1977, as if the agreement was executed by Shankar S/o.Swaminathan and K.S.Chandrashekar S/o. Shankaralinga Iyer. The said sale agreement was forged one and the stamp

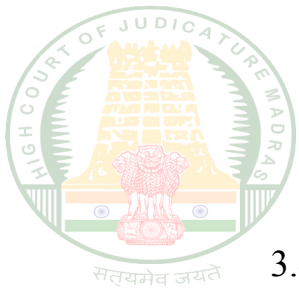


paper was purchased after a period of two years. The said agreement was printed in the stamp paper by Lizamma Urmese. The defacto complainant/ Lizamma Urmese also contested the suit filed by the first petitioner in O.S.No. 42 of 2017 on the file of the District Munsif Court, Kodaikanal, but the same was not referred in the complaint. The defacto complainant/Jayanthi had also filed a suit in O.S.No.74 of 2023 on the file of District Munsif cum Judicial Magistrate Court, Kodaikanal on 17.08.2023, challenging the settlement deed in favour of the first petitioner and the same is pending. Thereafter, the present complaint has been filed and the act of the defacto complainant is only a forum shopping, thereby making the first petitioner to withdraw the suit.

3.3. He further submitted that the defacto complainants are two imaginary persons and thereby filed a suit against themselves and got the sale deed registered in their names without adding the 1st petitioner's father and her husband. The compromise settlement between Jayanthi and Lizamma Urmese, through power of attorney, has to independently secure the sale deed in respect of undivided share of Chandrasekhar, no such document has been registered in favour of Lizamma Urmese. As per the compromise settlement the said Chandrasekhar, remind ex parte and he did not approve the sale deed. Therefore, the compromise was based on fraud played by Jeyanthi and Lizamma Urmese. Therefore, the civil dispute between the parties has been



given the criminal colour and the present complaint was lodged by the defacto complainant to settle the civil dispute. The entire case vested on the prosecution with regard to Sections 463 and 464 of IPC and in order to make out the prima facie case, to put the petitioners on trial, no materials available. As per the case of the prosecution late Sankar, A2 – Chandrasekhar have signed the documents by mentioning their father's names. This under no stretch of imagination will not fall within the definition of 463 and 464 of IPC, unless and until the prosecution establishes the same before the competent Court. As a result, Section 468 of IPC would fail and as there is no intention at the inception to defraud the respondents as defined under Section 415 of IPC would fail warranting interference of the powers vested by this Court under Section 482 of Cr.P.C. Therefore, the entire case would be an abuse of process of Court, unless and until the documents which are now subjected to civil suit and rights of the parties are decided therein. The entire allegations levelled against these petitioners in the final report reveal a civil dispute alone. In CRP.(MD) No1596 of 2017 preferred by the Lizamma Urmese to strike off the suit in O.S.No.42 of 2017, preferred by the first petitioner was rejected on 12.07.2023 by this Court and no criminal act said to have been committed by these petitioners, therefore, the proceedings are liable to be quashed.



3.4. As far as the offences under Sections 120B, 419, 420, 468, 471, 147 of IPC are concerned, there are no materials to attract the offence under Section 120B of IPC and there are no materials to make out the prima face case of impersonation, cheating etc. There are materials to show about the creative false documents and forgery of documents to cheat any person and the forgery documents was used as genuine one and there is no unlawful assembly to attract the offence under Sections 147 of IPC. Therefore, the first respondent without conducting the proper investigation filed the final report and the trial court also without prima facie material has taken cognizance and the same is pending before the Judicial Magistrate No.II, Kodaikanal. Therefore, the pending proceedings in C.C.No.20 of 2024 is liable to be quashed.

3.5. The learned counsel appearing for the petitioner also relied on the following judgments:

1. Mohammed Ibrahim and Others Vs State of Bihar and Another, reported in (2009) 8 SCC 751
2. Sasikala Pushpa and Others Vs. State of Tamil Nadu, reported in (2019) 6 SCC 477
3. Dr Vimala Vs. Delhi Administration, reported in AIR 1963 SC 1572
4. D.S.Velmurugan and another Vs. State of Tamil Nadu and another,



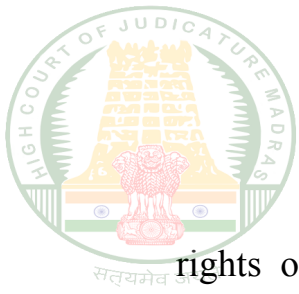
4. The learned counsel appearing for the first respondent would submit that based on the complaint lodged by the second respondent, the first respondent registered a case in Crime No.250 of 2023 for the offences under Sections 120B, 419, 420, 468, 471, 147 of IPC and thereafter, they conducted investigation, examined the witnesses, collected the materials and filed a final report before the Judicial Magistrate No.II, Kodaikanal. As per the records, there are prima facie materials available to proceed against the petitioners, thereby the Trial Court also has taken cognizance and all the offences are borne out by records. Therefore, the grounds raised by the petitioners are nothing but the defence to be raised before the Trial Court. There are no grounds to quash the proceedings and it is a matter of Trial and therefore, the petition is liable to be dismissed.

5. The learned counsel appearing for the second respondent would submit that the property originally belongs to one Lakshmanan Chettiar and the property was sold to K.S.Chandrasekhar S/o. Shankaralinga Iyer. Virudhunagar and one Sankar S/o.Swaminathan through sale deed dated 22.06.1972 in document no.470 of 1972 on the file of District Registrar, Dindigul. Thereafter, the said K.S.Chandrasekhar and Sankar entered into



an agreement with Lisama Urmees and the possession was given to Lisama Urmees and thereafter, she filed specific performance suit before the Sub Court, Periyakulam in O.S.No.19 of 1986 and the same was transferred to Principal Sub Court, Dindigul and renumbered as O.S.No.373 of 1992. In the meantime, Sankar S/o.Swaminathan filed a suit in O.S.No.438 of 1992 as against the Lisama Urmees. Both the suits were ended in favour of Lisama Urmees and thereafter both the suits were challenged before the High Court of Madras in Tr.A.S.No.1137 of 2001 and A.S.No.293 of 1997. Both the appeals were ended in favour of Lisama Urmees. Thereafter, the said Sankar S/o.Swaminathan preferred the appeal before the Hon'ble Supreme Court in Civil Appeal Nos.2819 to 2820 of 2011 and the same was referred to Tamilnaud Mediation and Conciliation Centre holding that the said Chandrasekhar and Sankar received the entire sale consideration.

5.1. In the meantime, the said Sankar S/o.Swaminathan died on 26.03.2012 and the wife of Sankar sold the property to Jeyanthi to an extent of 13.5 cents. While so, the father of the first petitioner and her husband, the second petitioner issued paper publication alleging that the document no.470 of 1972 in respect of the disputed property was misplaced and lodged a complaint before the first respondent and the first respondent also issued Non Traceable Certificate. Based on the same, father of the 1st petitioner without



rights of the property executed the settlement deed in favour of the first petitioner, and thereafter in the year 2013, the second petitioner executed the settlement deed in favour of the first petitioner, where the third petitioner is cited as witness and the document writers were also created the document without any title deeds in favour of the first petitioner's father and the second petitioner. Thereafter, the petitioner lodged a complaint, a FIR was registered in Crime No.250 of 2023. The first respondent investigated the case and filed a final report.

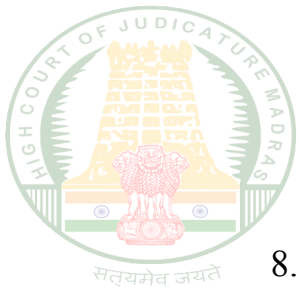
5.2. As per the final report, there are prima facie materials available to constitute the offences. The document No.470 of 1972 clearly shows that the property was purchased by K.S.Chandrasekhar S/o.Shankaralinga Iyer and Sankar S/o.Swaminathan, whereas, the father of the first petitioner and the second petitioner are belongs to Gounder Community thereby they impersonated. The petitioners have also compromise the settlement deed before the Hon'ble Supreme Court. The petitioners themselves admitted that there is a mistakes in the father of the petitioners in the sale deed dated 22.06.1972 and in document no.470 of 1972 in respect of father's name and address of the purchasers. Therefore, the offences charged against the petitioners are grave in nature and the same have to be tested through trial. As per the final report, there are prima facie materials available, therefore the



petitioners have to face the trial. At this stage, the petitioners are not entitled to any relief, and thereby the petition is liable to be dismissed.

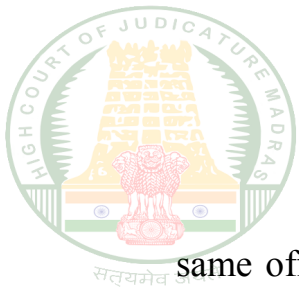
6. This Court heard both sides and perused the materials available on record.

7. In this case, the petitioners have been charged for the offences under Sections 120B, 419, 420, 468, 471, 447, 427, 506(1) of IPC. There is no dispute in respect of the identity of the property. Already there is an FIR registered against the petitioners and others in Crime No.250 of 2023 and thereafter the present complaint was lodged on the same set of allegations and by including other offences. There is no mention about the specific damages and the allegations are vague, general and omnibus. There is a Civil Suit pending between the parties in respect of the possession of the property, therefore the offence under Sections 447 of IPC would not arise without ascertaining the possession of the property. Even according to the prosecution case, the petitioners obtained decree before the Judicial Magistrate, Kodaikanal. Even though it is an ex parte decree, unless it is set aside, the same is valid decree in the eye of law. Therefore, the question of trespass would not arise.



8. As far as the offence under Section 427 of IPC is concerned, there is no clear mention about the damages of the properties. As far as the offence under Section 506(ii) of IPC is concerned mere threats will not constitute the offence under 506(ii) of IPC. In this case, the accused 1 to 3 trespassed into the house of the defacto complainant and caused damages to the fence and also threatened with dire consequences, but no specific allegations against each accused and only vague and bald allegations. As far as offence under Sections 120(B), 419, 420, 468, 471 of IPC are concerned, already a case has been registered for the same occurrence, and for the said offences in Cr.No. 250 of 2023 as against these petitioners along with other accused A4 to A7. Since already FIR was registered and the charge sheet was also filed and the case is pending in C.C.No.20 of 2024 on the file of Judicial Magistrate No.II, Kodaikanal, once again for the same offence, the accused cannot face the trial. Moreover with regard to the offences under Sections 120-B, 419, 420, 468, 471 of IPC are concerned, the witnesses examined by the respondent police in both the cases are one and the same. All the witnesses cited in the previous case are cited as witnesses in this case.

9. As far as the judgments cited by the learned Senior Counsel appearing for the petitioners are concerned, they are relating to the commission of offences under Sections 420, 468 and 471 of IPC, but for the



same offences, already case is pending in C.C. No.20 of 2024 on the file of the learned Judicial Magistrate No.II, Kodaikanal, Dindigul District. Therefore, it is not appropriate to rely the said judgments. Therefore, from the above discussions, it is clear that the pending proceedings in C.C.No.21 of 2024 is nothing but abuse of process of law and there are no prima facie materials available to constitute the offences under Sections 447, 427 and 506(i) of IPC. Therefore pending proceedings in C.C.No.21 of 2024, as against all the accused are liable to be quashed. A careful perusal of the records shows that for the same dispute, they lodged a complaint and the same is pending for trial before the Court in C.C.No.20 of 2024, again for the same set of allegations, the present complaint has been lodged along with other offences under Sections 447, 427, 506(i) of IPC. Therefore, it clearly shows that the complaint has been lodged with vague allegations with malafide intention.

10. In view of the above discussions, this Court is of the opinion that no prima facie material available as against the petitioners to proceed the case further and for the vague allegations, the petitioners need not face the ordeal of trial. The Investigating Officer filed the final report without any prima facie material and the trial Court also had taken cognizance without prima facie material. Therefore, the pending proceedings in C.C.No.21 of 2024 as



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against the petitioners is liable to be quashed.

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11. In the result, this Criminal Original Petition is allowed and the pending proceedings in C.C.No.21 of 2024 on the file of Judicial Magistrate No.II, Kodaikanal, Dindigul District is quashed as against these petitioners. Consequently, connected Miscellaneous Petition is closed.

18.07.2025

drl

To

- 1.The Inspector of Police
Kodaikanal Police Station,
Kodaikanal,
Dindigul District.
- 2.The Judicial Magistrate No.II,
Kodaikanal
- 3.The Public Prosecutor,
High Court, Madras.



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P.DHANABAL, J.,

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Crl. OP(MD).No.902 of 2025
and Crl.MP.(MD)No.618 of 2025

18.07.2025