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Crl.O.P.No.8189 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.03.2026

CORAM:

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

Crl.O.P.No.8189 of 2023 and
Crl.MP.Nos.5191 & 5192 of 2023

1.V.KARTHIKEYAN

2.V.RUBAVATHI

... Petitioners

Vs.

1.THE INSPECTOR OF POLICE,
J9, THURAIPAKKAM POLICE STATION,
Chennai 600 097 (Cr.No.398 of 2015)

2.M.THIRUNAVUKARASU

... Respondents

Prayer: Criminal Original petition filed under Section 482 of Cr.P.C.
praying to call for the records in CC.No.158 of 2020 on the file of the
Judicial Magistrate, Alandur and to quash the same

For Petitioners : Mr.S.Santhan

For Respondents

For R1 : Mr.A.Gopinath,
Government Advocate (crl.side)

For R2 : No appearance



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ORDER

This criminal original petition has been filed praying to quash the proceedings in CC.No.158 of 2020 on the file of the Judicial Magistrate, Alandur

2. The case of the prosecution is that the second respondent had purchased the land to an extent of 2280 sq.ft. comprised in survey No.405/10, Okkiyam Thoraipakkam Village situated at Plot No.113, Central Excise and Customs Colony, Thoraipakkam, Chennai. Thereafter, the second respondent had entered into joint venture agreement with one, Swamy Jayam, who is arrayed as A1, to develop the said property by joint venture agreement dated 18.06.2008. Accordingly, the first accused proposed to construct ground + first floor, totally four flats. As per the agreement, the second respondent shall be allotted 50% of the construction area i.e. two flats, wherein one flat in the ground floor facing road side and another one at first floor rear side of the building. Accordingly, the second respondent also executed power of attorney in favour of the first accused with power to sell 50% of the UDS in the land to any third party.



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3. By virtue of a Sale cum Construction Agreement dated 24.07.2010 entered between the Petitioners and R.M.Swamy Jayam, the said R.M.Swamy Jayam agreed to construct a Flat in first floor, having a plinth area of 819 sq. ft. with a covered car park for sum of Rs.40,35,000/- (Rupees Forty Lakhs Thirty Five Thousand only). Following the same, the 2nd Respondent through his Power Agent R.M.Swamy Jayam had executed a Sale Deed dated 13.09.2010 for 414 sq. ft. of undivided share in 2280 sq. ft. for sum of Rs.4,69,476/-(Rupees Four Lakhs Sixty Nine Thousand Four Hundred and Seventy Six only) in favour of the Petitioners vide document bearing No.4816/2010 respectively, registered in the office of SRO, Neelankarai. The 2nd Respondent through his Power Agent (R.M.Swamy Jayam) had executed a Sale Deed dated 03.07.2011 for 660 sq. ft. of undivided share in 2280 sq. ft. for sum of Rs. 8,80,440/- in favour of one G.Subramanian registered as Doc. No.3291/2011 in the Sub-Registrar Office of Neelankarai. The 2nd Respondent through his Power Agent (R.M.Swamy Jayam) had executed a Sale Deed dated 28.11.2011 for 63 sq. ft. of undivided share in 2280 sq. ft. for sum of Rs.84,042/- in favour of one R.Jayanthima registered as Doc. No. 8346/2011 in the Sub-Registrar Office of Neelankarai. The 2nd Respondent had executed a Sale Deed dated 15.02.2013 for 603 sq. ft. of undivided share in 2280 sq. ft from

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50% share, for sum of Rs.12,06,000/- in favour of one Mrs.R.

Jayanthima, D/o. Mr.S. Ramanujam registered as Doc. No. 1130/2013 in the Sub-Registrar Office of Neelankarai. The 2nd Respondent executed another Sale Deed dated 29.04.2015 for 500 sq. ft. of undivided share in 2280 sq. ft. form his 50% share, together with a residential flat, bearing Flat No. A, in Ground Floor having super built up area of 1080 Sq. ft. for sum of Rs.48,00,000/- in favour of one Mrs. M.Devamani, W/o. Mr.S. Ramanujam registered as Doc. No. 3316/2015 in the Sub-Registrar Office of Neelankarai.

4. The second respondent further alleged that without his knowledge a flat which was allotted in favour of him, was sold out in favour of the petitioners. The petitioners had purchased the said property with their absolute knowledge that the said flat was allotted in favour of the second respondent. On receipt of the said complaint, the first respondent registered FIR and completed investigation in crime No.2100 of 2012. After completion of investigation, final report was filed and the same has been taken cognizance by the trial court for the offence punishable under Section 420 of IPC.



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5. The learned counsel appearing for the petitioners would submit that they are arrayed as A2 and A3. They are bonafide purchasers of the flat. In fact, the first accused had sold his 50% of undivided share in favour of the petitioners as per the joint venture agreement. The only allegation raised by the second respondent is that the rear portion of the first floor is meant for the second respondent. However, he was allotted a flat in the third floor instead of a flat in the rear portion of the first floor. Further he submits that the second respondent had sold out his entire portion to a third party and the third party is in possession and enjoyment of the share of the second respondent. Further, the petitioners had absolutely no knowledge while purchasing their flat that the said flat was allotted in favour of the second respondent as per the joint venture agreement. That apart, the first accused filed suit for injunction in OS.No.460 of 2012 on the file of the District Munsif Court, Alandur against the second respondent and obtained interim injunction. Only thereafter, the first accused sold out the flat in favour of the petitioners. Therefore, only on the legal protection, that too without knowledge about the dispute pending between the first accused and the second respondent herein, the petitioners have purchased their flat. Therefore, no offence is made out as against the petitioners. As such, the impugned proceedings cannot be sustained and the same is liable to be quashed.



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6. Accordingly, the entire proceedings in CC.No.158 of 2020

on the file of the Judicial Magistrate, Alandur is quashed in respect of the petitioners and this criminal original petition is allowed. Consequently, connected miscellaneous petitions are closed.

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Index : Yes/No
Neutral citation : Yes/No
Speaking/non-speaking order
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To
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1. Judicial Magistrate, Alandur
2. THE INSPECTOR OF POLICE,
J9, THURAIPAKKAM POLICE STATION,
Chennai 600 097



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G.K.ILANTHIRAIYAN, J.

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