

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPEAL NO.1448 OF 2022
(Arising out of SLP (Criminal) No.3826 of 2022)

P. VIJAY NATARAJ & ORS.

Appellants

VERSUS

STATE & ANR.

Respondents

O R D E R

Leave granted.

This appeal challenges the judgment and order dated 10.08.2021 passed by the High Court of Judicature at Madras in Criminal Original Petition No.9763 of 2018.

The aforesaid Criminal Original Petition was directed against the order dated 18.01.2018 passed by the Principal District & Sessions Judge, Coimbatore in C.C. No.41 of 2015. The Revision in turn had arisen out of the rejection of application preferred by the present appellants seeking discharge in connection with crime registered pursuant to C.C. No.284 of 2011 (renumbered as CC No.1524 of 2019) on the file of Judicial Magistrate, Court No.III, Coimbatore.

It was submitted in said criminal case that the present appellants had executed two separate sale-deeds conveying their interest in the land in question in favour of the complainant; that though the documents were registered, it was not brought to the notice of the complainant that there was a reservation in respect of said land and it was subject matter of proceedings under the provisions of Tamil Nadu Town and Country Planning Act, 1971.

The contention advanced on behalf of the appellants, on the other hand, was that the appellants were not aware of such proceedings and therefore there was such averment in the document of title. In any case, they had never claimed any interest in the land after the conveyance and that the complainant was entitled to enjoy the lands in his capacity as a title holder.

The application for discharge was however rejected by the Trial Court, which order was confirmed in revisional jurisdiction by the Court of Principal District & Sessions Judge, Coimbatore in Cr1. Revision Case No.41 of 2015, which in turn was subject matter of challenge before the High Court.

The High Court, however, rejected the challenge vide its judgment and order which is presently under challenge.

In this appeal, we have heard Mr. K.V. Viswanathan, learned Senior Advocate for the appellants and Mr. R. Basant, learned Senior Advocate for the complainant.

Mr. Viswanathan has brought to our notice the fact that the appellants had approached the High Court of Judicature at Madras by filing Writ Petition No.417 of 2022 submitting *inter alia* that in view of the inaction on the part of the authorities, the land in question stood released from reservation/designation and that such release ought to be in favour of the complainant. It is submitted that accepting the submissions so made, the High Court vide its judgment and order dated 12.01.2022 observed as under:

"8. In that view of the matter this Court is inclined to dispose of this writ petition with the following order:

- * That the land in question owned by the petitioners in S. Nos.26/2B and 26/3 of Tudiyalur Village which was part of the land proposed for the inner ring road in the Coimbatore Master Plan under G.O. Ms. No.661, Housing and Urban Development Department dated 12.10.1994 is declared to be land released under Section 38 of the Tamil Nadu Town and Country Planning Act.
- * As a sequel, the respondents 1 and 2 as well as the third respondent shall take necessary steps to release the land to and in favour of the petitioners within a period of four weeks from the date of receipt of a copy of this order.
- * It is made clear that once the land in question is released in favour of the petitioners, since the same has already been transferred in the name of the fourth respondent, subsequently the fourth respondent shall establish and execute

his right over the property as the lawful owner.”

As has been observed by the High Court, the land would be released in favour of the 4th respondent in the proceedings before the High Court, that is to say, the complainant.

Mr. Viswanathan submits that the appellants stand by the petition and the order passed by the High Court as stated above. It is further submitted that in case the original complainant so desires, the appellants are willing to return the amount of consideration.

Considering the fact that the appellants never claimed any interest in the land and the fact that his *bona fides* are clear when he sought release in favour of 4th respondent i.e. the complainant, in our view, the application seeking discharge as filed by the present appellants deserves acceptance.

We, therefore, allow this appeal and discharge the appellants of the charges levelled against them in said C.C. No.284 of 2011 (renumbered as CC No.1524 of 2019) initiated by the complainant.

Needless to say, that consistent with the stand taken by the appellants, it is declared that they have nothing to do with the land in question and that the land now stands released in favour of the complainant herein in terms of the directions issued by the High Court in its order dated 12.01.2022.

With these observations, the appeal is allowed.

.....CJI.
[UDAY UMESH LALIT]

.....J.
[S. RAVINDRA BHAT]

**NEW DELHI;
SEPTEMBER 05, 2022**