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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 15/06/2023

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The Hon'ble Mr. Justice **G. ILANGO VAN**

Cr1.OP(MD)No.2408 of 2023
and
Cr1.MP(MD)No.2170 of 2023

Kothandam : Petitioner/A2

Vs.

1.The Inspector of Police,
District Crime Branch,
Ramanathapuram District,
(In Crime No.8 of 2022). : R1/Complainant

2.Govindan : R2/De-facto complainant

PRAYER:- Criminal Original Petition has been filed under section 482 of the Criminal Procedure Code, to call for the records relating to the FIR in Crime No.8 of 2022 on the file of the 1st respondent police and quash the same as against the petitioner alone.

For Petitioner : Mr.R.Gowrishankar

For 1st Respondent : Mr.R.Suresh Kumar
Government Advocate
(Criminal side)

For 2nd Respondent : Mr.S.Manoj Kumar

**ORDER**

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This criminal original petition has been filed seeking quashment of the FIR in Crime No.8 of 2022 on the file of the first respondent.

2.The case of the prosecution in brief:-

In January 2012, the petitioner herein namely Kothandam approached the de-facto complainant stating that one Vijayaraman known to him and he is having several plots and they can also purchase plots from him. Believing the words of Kothandam, he entered into a sale agreement for several plots. The total sale consideration was fixed at 2,50,000/-. The above said amount was received by Kothandam and Vijayaraman, knowing fully well that Vijayaraman did not own the property. When he approached the Corporation for plan approval, he was informed that the above said property belongs to one Sathasivaram Servai. When the de-facto complainant enquired with Kothandam, he promised to rectify the mistake, but later failed. On the basis of the complaint, a case in Crime No.8 of 2022 was registered for the offence under section 420 IPC.



3. Pending investigation, this petition has been filed by the second accused namely Kothandam seeking quashment on the ground one Sathasivam has forged patta in his name as if the property belongs to him. The above said Sathasivam and de-facto complainant purchased house sites from the owner namely Vijayaraman, on 20/02/2012. After purchase, the de-facto complainant did not apply for patta transfer and for separate patta. But the above said Sathasivam obtained patta by including the property, which was purchased by the de-facto complainant. To cancel the patta, the de-facto complainant filed appeal before the Revenue Divisional Officer, Paramakudi and it is also pending. But suppressing the above said proceedings, this complaint has been lodged by the de-facto complainant.

4. Heard both sides.

5. It is an allegation of cheating. It is the specific allegation of the petitioner to the effect that the property belongs to one Sathasivam and not the vendor namely Vijayaraman, who is shown as A1 in this matter.



6. Now, the learned counsel appearing for the petitioner would submit that even as per the allegation made in the FIR, money was paid only to A1 and this petitioner is noway involved. But from the perusal of the records and FIR, it is seen that there is specific allegation to the effect that the amount was also received by this petitioner along with A1. So, when there is specific allegation to that effect, who received the money and to whom the above said property belongs is a matter for consideration during the course of investigation.

7. Now the petitioner would say that the above said Sathasivam and the de-facto complainant purchased the property from A1. But later, due to transfer of patta, objections received between the parties, for which, this petitioner cannot be held responsible.

8. The petitioner would rely upon the patta proceedings, that was initiated by the de-facto complainant. Now the above said enquiry is stated to be pending before the Tashidhar, Parakakudi. The first accused alleged to have purchased the property comprised



in Survey No.272/1A1 measuring about 15 cents. The total extent for the above said survey is mentioned as 2.23 acres.

9.Whether the above said sale deed is a registered one or not is not clear on record. The sale deed is, dated 22/02/1994. Subsequent to that, the first accused sold 1600 sq. feet to the de-facto complainant through a registered sale deed.

10.Now the allegation is that this property does not belong to A1, but one Sathasivam. It is a matter for consideration during the course of investigation and how far, this petitioner is involved in this transaction can also be brought only during the course of investigation. This is too a premature stage to quash the proceedings. The investigation must be taken to its logical conclusion. I find no merit in this petition.

11.In the result, this criminal original petition is **dismissed**. But however, depending upon the out come of the investigation process, if the petitioner is still aggrieved over the final report, he can work out his



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remedy through appropriate proceedings in the manner known to law. Consequently, connected Miscellaneous Petition is closed.

15/06/2023

Index:Yes/No
Internet:Yes/No

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To,

- 1.The Inspector of Police,
District Crime Branch,
Ramanathapuram.
- 2.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

G.ILANGOVAN, J



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