



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Tuesday, the Eleventh day of April Two Thousand and Twenty Three

PRESENT

The Hon`ble Mr.Justice G.K.ILANTHIRAIYAN

CRL RC(MD) No.520 of 2018

G.Krishnakumaran : Petitioner / Petitioner / Accused No.1

Vs.

S.V.Chinnappan : Respondent / Respondent /
Defacto Complainant

PRAYER: Criminal Revision Petition filed under Section 397 read with 401 of Criminal Procedure Code to call for the records relating to the order passed in Cr.M.P.No.42454 of 2017 in C.C.No.11 of 2011, dated 29.06.2018, on the file of the learned Judicial Magistrate No.II, Srivilliputhur and to set-aside the same as illegal.

Order : This petition coming up for orders on this day, upon perusing the petition filed in support thereof and upon hearing the arguments of M/S.N.SATHEESH KUMAR, Advocate for the petitioner and of Mr.M.Solaisamy, Advocate on behalf of the Respondent, the court made the following order:-

The matter is listed today under the caption 'for reporting compliance'.

2.When the matter was taken up for hearing on 09.10.2018, this Court passed the following order:-

"Heard the learned counsel appearing for the petitioner and the learned counsel appearing for the de-facto complainant, who is the respondent herein.

2. This Revision Petition is directed against the dismissal of Discharge Petition filed under Section 245 Cr.P.C., in a private complaint lodged by the respondent.

3. According to the complaint filed under Section 200 read with 156(3) Cr.P.C. which has been taken on file by the learned Judicial Magistrate No.II, Srivilliputhur, the first accused Krishnakumaran, Managing Partner, Garuda



Maruthi Real Estate and other accused have enrolled members for the scheme of selling housing plots. From the complaint, it appears that the scheme provides for housing plots on payment of Rs.160/- (Rupees One Hundred and Sixty only) for 40 monthly instalments.

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4. It is the case of the de-facto complainant that despite he and twenty others have subscribed to the said scheme from 24.03.2005 to 22.02.2008, the first accused has not sold the plot as agreed. When the de-facto complainant asked for compliance of the agreement, the Accused Nos.1 to 5 have threatened him with dire consequences. It is also alleged in the complaint that the accused persons have cheated several persons to the tune of Rs.1,50,000/- (Rupees One Lakh and Fifty Thousand only). Alleging that the act of the first accused and others attracts offences under Sections 465, 468, 420 and 506 (i) I.P.C., a private complaint has been filed.

5. Accused Nos.1 to 4 had filed Discharge Petition alleging that as per the terms of the agreement, the accused has promoted the lay outs in Survey Nos.12, 13, 15, 16/2, 20/1B, 20/2, 21/1A and 21/2B in North Srivilliputtur Village, Thiruvannamalai Panchayat and ready to transfer the plots which they have agreed to sell. But, now the de-facto complainant instead of the plot, contra to agreement, demands money back with interest, therefore, with false allegations has preferred the private complaint. The Trial Court failed to consider the defence submissions and dismissed the petition on the ground that the rival submissions has to be decided only after full trial and the accused cannot be discharged without framing charge and trial.

6. The learned counsel appearing for the revision petitioner herein, who is representing Accused No.1 would submit that the revision petitioner is the Managing Partner of Garuda Maruthi Real Estates and is ready to honour the terms of the agreement between the Garuda Maruthi Real Estates and the de-facto complainant. Instead of the plot, the de-facto complainant is now insisting upon the refund of amount, which is not in consonance with the terms of the agreement. The learned counsel also dispels the submissions of the de-facto complainant that there is no plot available as per the terms of the contract.

7. A reading of the charge sheet which is annexed along with the typed set of papers indicates that the chit subscription for 300 subscribers will be decided by way of drawn lot every month for 25 months. Later, the plot will be registered in the name of the successful subscriber. The registration shall be done at the cost of the subscriber. The un-successful subscribers are entitled for



registration of the document after completion of 40 months instalments. The monthly instalment is fixed as Rs.160/- for 40 months. The allegation of the de-facto complainant is that the petitioner and others are not ready to register the plot as agreed. Whereas, the first accused who is the revision petitioner herein records that he is ready to transfer the plot as per the scheme.

8. In the said circumstances, this Court prima facie finds that there is no dishonest or fraudulent intention on the part of the first accused, who is the revision petitioner herein. Therefore, the Revision Petition is allowed. The private complaint preferred by the respondent herein is quashed on condition that the revision petitioner herein shall execute the sale deed in favour of the respondent and other subscribers, who are similarly placed for their respective plots at the cost of the subscribers. If the revision petitioner fails to execute the deeds within 30 days from the date of expression made by the subscribers will amount to breach of promise and cheating. It will attract criminal offence.

9. Registry is directed to post the matter on 20.11.2018 "for reporting compliance" of the order."

3. This Court allowed the Revision and quashed the private complaint preferred by the respondent on condition that the revision petitioner shall execute the sale deed in favour of the respondent and other subscribers, who are similarly placed for their respective plots at the cost of the subscribers, within a period of 30 days.

4. Today, when the matter is taken up for hearing, the learned counsel appearing for the respondent would submit that so far the petitioner did not comply with the condition imposed by this Court.

5. In view of the above, this Criminal Revision Case is dismissed. The trial Court is directed to proceed with the trial as against the petitioner and dispose of the case in C.C.No.11 of 2011 on the file of the learned Judicial Magistrate No.II, Srivilliputhur, within a period of six months from the date of receipt of a copy of this order. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (CS I)

// True Copy //

/04/2023

Sub Assistant Registrar (CS)



TO

THE JUDICIAL MAGISTRATE NO.II
SRIVILLIPUTHUR.

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COPY TO:

THE SECTION OFFICER,
CRIMINAL RECORDS,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1 CC to Mr.M.Solaisamy , Advocate SR.No.21027

ORDER DATED : 11/04/2023

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ORDER
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CRL RC (MD) . No.520 of 2018

Giving direction and etc.
as stated within.

MK/27.04.2023 4P 5C