

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16-10-2015

CORAM

THE HONOURABLE MR.JUSTICE P.N.PRAKASH

Crl.O.P.No.24554 of 2015
M.P.No.1 of 2015

1.S. Rani
2.S. Srinivasan
3.S. Balaji
4.S. Kamaladevi
5.R. Boopalaraghavan
6.S. Ramesh Babu Petitioners

Vs.

1. The Inspector of Police,
Team-I, EDF-I Wing,
Central Crime Branch,
Vepery, Chennai - 600 007.

2. Syed Mubeenuddin Respondents

1.T. Jeevanandham
2.T. Kalaivani
3.K.S. Nadanasabesan
4.S. Shanthi
5.S. Mohan Raj. Interveners/Petitioners
in M.P.1/2015

Criminal Original Petition filed under Section 482 of Cr.P.C. with a prayer to call for the records and quash the complaint dated 14.10.2014 in Crime No.490/2014 on the file of the first respondent.

For Petitioners : Mr.S.R.Rajagopal
For 1st Respondent : Mr.C. Emalias,
Additional Public Prosecutor

For 2nd Respondent : Mr.L.C.M.Lazarus

For Interveners/
Petitioners in M.P.1/2015 : Mr.V.Lakshminarayanan
for Mr.B.Vijay

O R D E R

On a complaint lodged by Syed Mubeenuddin, the first respondent Police registered a case in Crime No.490 of 2014 on 18.12.2014 for the offences under Sections 406, 420, 294(b), 506(i) read with 120(B) of I.P.C., against 17 accused, challenging which A-7 to A-12 are before this Court.

2. It is the case of the prosecution that the land in question belongs to A-7 to A-10, and that they had appointed one M.M.S.Shoppe as their agent for selling the lands. It appears that the M.M.S.Shoppe, which is run by A-1 to A-6 had issued advertisements, seeing which about 32 persons had made advance payments for purchase of the lands, but M.M.S.Shoppe failed to register the lands in their names. The complaint lodged by one of the victim by name Syed Mubeenuddin/second respondent herein is the basis for registration of the case in Crime No.490 of 2014 and the complaints of other 31 persons are reckoned as statements under Section 161 of Cr.P.C. It appears that A-7 to A-10, who are owners of the property had given power of attorney to A-11 and A-12 in respect of the property. A-7 to A-10 agreed that the plots belonging to them could be sold and they be paid a sum of Rs.1,200/- per sq.ft.

3. Now it is seen that A-7 to A-12 have amicably settled with all the 32 prospective purchasers, and they have entered into a Memorandum of Understanding dated 16.6.2015 with 27 purchasers. During pendency of this quash petition, five of the prospective purchasers (petitioners in M.P.No.1 of 2015) who were not party to the Memorandum of Understanding, intervened in the quash proceedings. It is seen that A-7 to A-12 have arrived at a settlement with those five persons also. Thus, it is seen that all the 32 prospective purchasers have been settled with and there is no impediment for this Court in quashing the FIR as against A-7 to A-12.

4. The 27 persons, who were party to the Memorandum of Understanding dated 16.6.2015, have filed individual affidavit before this Court, wherein it is stated as follows:

"2. I submit that one Mr.Syed Mubeenuddin had given a complaint with the Central Crime Branch against M.M.S.Shoppy and others. M.M.S.Shoppy had promised to sell certain plots, believing which, I and others had paid money. Subsequently, they did not sell the property and hence the complaint has given. During the pendency of the complaint, the petitioner 1 to 4 who are the original

owners and 4th & 5th petitioner who are the Power Agents, had approached me promising to execute the sale deed by receiving only the balance money. I realise that even the petitioners has also been cheated and hence agreed to pay the balance to the petitioners, who promised to execute the sale deed in our favour in respect of the land which was originally agreed to be sold.

3. In light of the above, I and other purchaser entered into a Memorandum of Compromise, which was also filed in the writ petition in W.P.No.9043/2015. In terms of the compromise, agreed to withdraw the criminal complaint against the petitioners alone. The petitioners have also been duped and the complaint against them is withdrawn in light of the settlement. I consent for withdrawal of the complaint as against the petitioners and file this affidavit before this Hon'ble Court to place on record that the complaint given as against the petitioners herein is withdrawn and I do not intend to pursue the complaint against the petitioners."

5. Syed Mubeenuddin/defacto complainant in Cr.No.490 of 2014 has filed a separate affidavit wherein it is stated as follows:

"2. I submit that I had given a complaint with the Central Crime Branch against M.M.S.Shoppy and others. M.M.S.Shoppy had promised to sell certain plots, believing which, I and others had paid money. Subsequently, they did not sell the property and hence we had given our complaint. During the pendency of the complaint, the petitioner 1 to 4 who are the original owners and 4th & 5th petitioner who are the Power Agents, had approached us promising to execute the sale deed by receiving only the balance money. We realise that even the petitioners have been cheated and hence agreed to pay the balance to the petitioners, who promised to execute the sale deed in our favour in respect of the land which was originally agreed to be sold.

3. In light of the above, we entered

into a Memorandum of Compromise, which was also filed in the writ petition in W.P.No.9043/2015. In terms of the compromise, I and others, have agreed to withdraw the criminal complaint against the petitioners alone. The petitioners have also been duped and the complaint against them given by us is withdrawn in light of the settlement. We consent for withdrawal of the complaint as against the petitioners, file this affidavit before this Hon'ble Court to place on record that the complaint given by me as against the petitioners herein is withdrawn and we do not intend to pursue the complaint against the petitioners."

6. As regards the five persons, who are not party to the Memorandum of Understanding dated 16.6.2015, an affidavit sworn to by T.Jeevanandham has been filed wherein it is stated as follows:

"3. I submit that the petitioners 1 to 5 are the owners of the said property and the 6th and 7th petitioner herein are their power agents. I have agreed to pay the balance consideration of Rs.26,08,000/- after adjusting the payment made by us above mentioned to the petitioner's herein for purchase of 7 plots admeasuring 600 sq.ft. each totaling 4200 sq.ft. in all and they have agreed to register the said alternative plots on or before 27.10.2015 in favour of the Intervening Petitioners. I further submit that I have agreed to withdraw the complaint as against the petitioner's herein.

4. I submit that the complaint as against MMS shopping India Private Limited would be continued and any amount so recovered from them shall be paid to the petitioner's herein and I have agreed that I do not have any claim whatsoever insofar as any amount that may be so recovered. I have further agreed that we will register the plots at our own cost. I acknowledge that I do not have any claim whatsoever against one another. I have agreed that in the event of the failing to pay the balance consideration on or before 31.10.2015, the petitioner's shall be free to sell the plots to 3rd

parties and I have no further claim whatsoever as against the petitioners herein.

5. I submit that the petitioners have also been duped and the complaint against them given by me is withdrawn in light of the settlement. I consent for withdrawal of the complaint as against the petitioners and file this affidavit before this Hon'ble Court to place on record that the complaint given by me as against the petitioners herein is withdrawn and I do not intend to pursue the complaint against the petitioners in light of the settlement."

7. A-7 to A-12 have agreed that they will register the sale deed for 7 plots measuring totally 4200 sq.ft., on receipt of balance consideration of Rs.26,08,000/- from the aforesaid five persons.

8. In view of the above, this petition is allowed and the FIR in Cr.No.490 of 2014 as against the petitioners/A-7 to A-12 is hereby quashed. Connected M.P.No.1 of 2015 is closed.

Sd/-

Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

vr

To

1.The Inspector of Police,
Team-I, EDF-I Wing,
Central Crime Branch,
Vepery, Chennai - 600 007.

2.The Public Prosecutor,
High Court, Madras.

+2cc's to Mr.B.Vijay, Advocate, S.R.No.57461

Cr1.O.P.No.24554 of 2015

KSJ(CO)
CA(30/10/2015)