

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 18.06.2015

DELIVERED ON : 24.06.2015

CORAM

THE HONOURABLE MR.JUSTICE P.N.PRAKASH

Crl.O.P.Nos.4706 of 2015 and 32983 of 2014
and M.P.No.1 of 2015 in Crl.O.P.No.4706 of 2015
and M.P.No.1 of 2014 in Crl.O.P.No.32983 of 2014

Chandrabalu .. Petitioner in Crl.O.P.4706/2015/A8
Jayaprakash .. Petitioner in Crl.O.P.32983/2014/A4

Vs

1.State by Inspector of Police
District Crime Branch
Vellore District
(Crime No.27/2014) .. 1st Respondent both OP's/Complainant

2.D.Prakash .. 2nd Respondent in both Crl.O.Ps./
Defacto Complainant

Prayer:- Criminal Original Petitions filed under Section 482
Cr.P.C., to call for the records relating to Cr.No.27 of 2014 on
the file of the first respondent police, Vellore and quash the same
as far as the petitioners are concerned.

For Petitioners Mr.I.Abrar Md. Abdullah

For R1 Mr.M.Mohammed Riyaz
Govt.Advocate [crl.side]

COMMON ORDER

These petitions have been filed to call for the records
relating to Cr.No.27 of 2014 on the file of the first respondent
police, Vellore and quash the same as far as the petitioners are
concerned.

2. Heard the learned counsel for the petitioners and the
learned Government Advocate [crl.side] appearing for the State.

3. On a complaint lodged by one Prakash, the respondent police
registered a case in Cr.No.27 of 2014 on 31.07.2014 for offences
under Sections 420, 406, 353 and 506(i) IPC r/w 109 IPC against 7
persons, including the petitioners herein.

4. It is the case of the defacto complainant that, he is a
partner in Varsha Agencies which had supplied chemicals and dyes to

M/s Mahadev Industries from 13.04.2009 to 09.11.2012 to a tune of Rs.43,20,027/-. The defacto complainant was demanding repayment of money from M/s Mahadev Industries. While so, it came to the knowledge of the defacto complainant that, one Parvathammal, Krishna and Harish, who are the owners of M/s Mahadev Industries, had sold the chemicals and dyes that was supplied by the defacto complainant to certain other companies at a very low price and thus, they had illegally gained at the cost of the defacto complainant. When this was brought to the notice of Parvathammal, she represented to him that, her properties have been mortgaged with Oriental Bank of Commerce for Rs.4 crores and that she will sell the properties and settle the dues. At that time, the defacto complainant decided to buy M/s Mahadev Industries and therefore, the said Parvathammal executed a Power of Attorney in favour of her son Krishna on 22.08.2013.

5. On the strength of the Power of Attorney, Krishna entered into a sale agreement with the defacto complainant and his partners for Rs.5.5 crores and the defacto complainant also agreed to pay the mortgage amount to the Oriental Bank of Commerce. During the subsistence of sale agreement, the Proprietors of M/s Mahadev Industries, namely Parvathammal, her sons Krishna and Harish had sold the properties to one Krishnamoorthy on 14.03.2014. The sale deed was registered at around 8.00 p.m. in the night. Thus, Parvathammal and her cohorts had devised an ingenious plan to cheat the defacto complainant by first purchasing huge materials from them on credit and selling the materials to others at a cheaper price and when that fraud came to light, they agreed to compensate the defacto complainant by selling the properties, which also they failed to do.

6. It appears that the defacto complainant has also paid around Rs.1.5 crores to Oriental Bank of Commerce towards the loan amount on the representation made by Parvathammal and her sons that, they will clear the mortgage and get back the original title deeds and convey the property to him. Police undertook investigation and arrested the Document Writer, by name Koteswaran and he spilled the beans. During the course of investigation it came to light that, the petitioners who are working as Sub Registrar and Office Assistant in the Office of the SRO had conspired with Parvathammal in the said offence. Both the petitioners were arrested by the police on 22.02.2014 and they were remanded to judicial custody and later released on bail.

7. Mr.I.Abrar Md.Abdullah, learned counsel for the petitioners submitted that, the petitioners cannot be prosecuted for having innocently registered the document that was presented for registration. He also submitted that the first petitioner had initiated action under the Stamp Act for under valuation and that the document was kept pending and not registered. Therefore, the learned counsel relying upon the judgment of this Court in K.S.Vijayendran vs. The Inspector General of Registration, Santhome High Road, Santhome, Chennai [2011(2) LW 648] and submitted that,

the prosecution against these petitioners is an abuse of process of law.

8. This Court carefully considered the submissions and found that the petitioners are not as innocent as what they claim. It is seen that the document has been registered at eight in the night and not during Office hours. Koteswaran has stated that he is a Document Writer and that he is the conduit between the parties coming for registration and the Sub Registrar [petitioner herein]. Accordingly, the impugned document was registered by the petitioner herein at the instance of the co-accused. Even though they knew full well that the property covered under the document was mortgaged with Oriental Bank of Commerce, the Sub Registrar and his Assistant have registered the document. Since investigation is at a very nascent stage, the FIR in this case cannot be quashed. The Hon'ble Supreme Court in Bajanlal vs. State of Haryana, [AIR 1992 SC 604] has laid down the parameters for quashing the FIR and the facts of this case does not pass muster the law laid down therein.

In the result, these petitions are devoid of merits and the same stand dismissed. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar

True Copy

Sub Assistant Registrar

To

1.The Inspector of Police
District Crime Branch
Vellore District.

2.The Public Prosecutor
High Court, Madras.

+2 cc's to Mr.D.Abrar Md.Abdullah, Advocate,Sr.31163.

Sv(co)
krd 10/7

Pre-delivery order in
Crl.O.P.Nos.4706 of 2015
and 32983 of 2014