IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.07.2015

CORAM

THE HONOURABLE MR.JUSTICE P.N.PRAKASH

Crl.OP No.25330 of 2010
and M.P.No.1 of 2010 and 2 of 2011

K.S.Geetha .. Petitioner/Accused-1

Vs

1.State rep by
Inspector of Police
Team XVIII, Central Crime Branch
Egmore, Chennai 600 008.

2.Sarath Kakumanu .. Respondents/Complaint/Defacto Complainant.

[R2 impleaded as per the order of this Court dated 19.01.2011 in M.P.No.1 of 2011]

Prayer:- Criminal Original Petition filed under Section 482 Cr.P.C., to call for the records and quash the FIR in X Crime No.766 of 2006 on the file of the Inspector of Police Team XVIII, Central Crime Branch, Egmore, Chennai.

For Petitioner : M/s T.S.Gopalan & Co.

For R1 : Mr.C.Emalias,
Addl.Public Prosecutor

For R2 : Mr.M.Guruprasad

ORDER

This petition has been filed to call for the records and quash the FIR in X Crime No.766 of 2006 on the file of the Inspector of Police Team XVIII, Central Crime Branch, Egmore, Chennai.

2. The FIR in this case was registered in the year 2006 and the petitioner/accused approached this Court in 2010 and stay of investigation appears to have been granted. Thereafter, the case never saw the light of the day. Ultimately, when old cases were taken up for hearing by this Court, on 26.06.2015 learned counsel for the petitioner sought adjournment and hence, the matter was posted today finally for arguments. Today, when the matter was taken up, learned counsel for the petitioner submitted that he is not able to contact his parties and therefore, reported "No instructions." This

Court viewed this as yet another tactics for prolonging the matter. Therefore, this Court took upon itself the task of going through the records.

3. On a complaint lodged by Sarath Kakumani and K.Beena, the respondent police registered a case in Cr.No.766 of 2006 on 28.09.2006 for offences under Sections120B, 419, 420, 465, 467 and 471 IPC against nine persons, including the petitioner herein. The respondent police have filed a counter, wherein, the facts of the case have been vividly narrated as follows:

> "2. It is respectfully submitted the gist of the case is as follows:
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> The case of the prosecution is that the defacto complainant, Tr.Sarath Kakumanu and one Beena, who is the sister of the above said complainant had given a complaint before the Deputy Commissioner of Police, C.C.B., Chennai City against one Geetha, who is also a sister of the above said complainant.
>
> In that complaint, Tr.Sarath Kakumani and his sister Mrs.Beena had stated that the property situated in No.1, L.B.Road, Adyar, Chennai in Survey No.57/1 measuring about 275 cents of land which belongs to them. The defacto complainant came to know that the above said property was trying to sell to DLF Universal Ltd., Delhi with the help of forged Power of Attorney, as if given by the defacto complainant - Tr.Sarath Kakumanu, K.Beena, K.Sujini and Ashwin to the accused - Geetha, the petitioner/accused [A1] herein, which has been registered as document no.2443 of 2006 at the Office of the Sub Registrar Office, George Town, Chennai on 05.07.2006. Hence, the defacto complainant - Tr.Sarath Kakumanu and Mrs.Beena preferred a complaint before the Deputy Commissioner of Police, C.C.B., Chennai.
>
> 3. It is respectfully submitted that based on the above complaint given by one Tr.Sarath Kakumanu, before the Commissioner of Police, Chennai, a case in C.C.B.X Crime No.766 of 2010 for offences under Sections 120(b), 419, 420, 465, 467, 468 and 471 r/w 34 IPC was registered by the then Inspector of Police, Tr.Govindarajan on 28.09.2006 at 15.00 hours and took up the investigation.

4. It is submitted that based on the above said complaint, the then Inspector of Police on 28.09.2006, has enquired the defacto complainant, Tr.Sarath Kakumanu & Mrs.Beena and recorded their statements. Both of them have corroborated the same version as stated in the complaint. He has also collected relevant vital documents pertaining to the above case from the Sub Registrar Office concerned.

9. It is submitted that so far the investigation reveals that according to the report of the Tamil Nadu Finger Print Bureau, Chennai, it is clear that the thumb impressions found in the documents, i.e., power of attorney is not tallied with the defacto complainant, Tr.Sarath Kakumannu and Mrs.Beena. Further, other persons, namely, Sujini and Ashwin were not at all physically available in India during the date of registration of the same in the Sub Registrar Office, Chennai. Further, the petitioner/accused along with other accused, collected a sum of Rs.2 crores from one Sundaralingam and Rs.1 crore from Padam Chand Chowdry and entered into two unregistered sale agreement towards the sale of the above said property in dispute.

10. It is submitted that during the course of the pending investigation, the petitioner/accused [A1] moved this Hon'ble High Court, Madras praying for stay vide Crl.M.P.No.1 of 2010 in Crl.O.P.No.25330 of 2010 and obtained the interim stay on 29.10.2010."

4. From the above, the police have collected enough materials during the course of investigation showing that the accused had registered a bogus Power of Attorney dated 05.07.2006 with the Joint Registrar, North Beach.

In view of the serious nature of allegations and in the light of the incriminating materials collected by the police, this is not a fit case for quashing the FIR. The Hon'ble Supreme Court in State of Haryana vs. Bhajan Lal [AIR 1992 SC 604] has laid down the parameters for quashing an FIR and the facts of this Court does not pass muster with the law laid down therein. Accordingly, this petition is dismissed. Consequently, connected miscellaneous petitions are closed.

gms

s/d-
Assistant Registrar(CS-III)

True Copy

Sub-Assistant Registrar

To

1. The Inspector of Police
   Team XVIII, Central Crime Branch
   Egmore, Chennai 600 008.

2. The Inspector of Police Team XVIII,
   Central Crime Branch, Egmore, Chennai

3. The Public Prosecutor
   High Court,Madras.

+ 1 cc to Mr.M.Guruprasad, Advocate SR 33699

rsi(co)
prk27/7

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