

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.07.2016

C O R A M

THE HONOURABLE Mr.JUSTICE P.N.PRAKASH

Crl.O.P.Nos.12714 & 13779 of 2016
and
Crl.MP.No.6568 of 2016

Crl.O.P.No.12714 of 2016

1.Padmanaban
2.Vikraman
3.Tamizh

... Petitioners

Vs.

1. State: Inspector of Police,
Central Crime Branch, Team I,
Vepery, Chennai.

2. Seethapathi

... Respondents

PRAYER: Criminal Original Petition is filed under Section 482 of Cr.P.C to call for the records in Cr.No.188 of 2015 pending on the file of the 1st respondent and quash the same.

Crl.O.P.No.13779 of 2016

Padmanaban

... Petitioner

Vs.

1. The Inspector of Police,
CCB, Team XV,
Vepery, Chennai.

2. The Inspector of Police,
CCB, Team I,
Vepery, Chennai.

3. N.Seethapathy
(R3 is impleaded as per the order
of Court dated 22.07.2016 in Crl.MP
No.7796 of 2016)

... Respondents

PRAYER : Criminal Original Petition is filed under Section 482 of Cr.P.C to direct the respondents 1 & 2 to complete the investigation and to file final report in Crime No.580 of 2012 pending on the file of the 1st respondent.

For Petitioner : Mr.K.S.Kaviarasu
in Both Crl.OPs.

For Respondent : Mr. C. Emalias
No.1 in Crl.OP. Additional Public Prosecutor
12714/2016 &
R1 & R2 in Crl.
OP 13779/2016

For Respondent : S.Vijaya Kumar
No.2 in Crl.OP.
12714 & R 3 in
Crl.OP13779/2016

C O M M O N O R D E R

Heard Mr.K.S.Kaviarasu, learned counsel appearing for the petitioners in both Crl.OPs.; the learned Additional Public Prosecutor appearing for the first respondent in Crl.OP.12714 of 2016 and first and second respondents in Crl.OP.No.13779 of 2016 and Mr.S.Vijaya Kumar, learned counsel for the R2 in Crl.OP.12714 of 2016 and R3 in Crl.OP.13779 of 2016.

2. For the sake of convenience, the parties will be referred by their names.

3. The property in question is a vacant land measuring 3043 Sq.ft in Kodambakkam in Chennai. This land originally belonged to Rathinam, who died on 17.07.1996 leaving behind Kasthuri, Sathyamurthy and Nesamurthy as his heirs. Kasthuri died on 07.06.2011. While so, a Power of Attorney appears to have been registered on 04.07.2011, as if, Kasthuri has appointed one Narayana Reddy as her Power agent to sell the said property. The said Power Agent proceeded on the footing that Kasthuri is the only heir of Rathinam. On the strength of the power of attorney dated 04.07.2011, Narayana Reddy sold the said property on 21.02.2012 to one N.Padmanabhan. The said Padmanabhan and his two sons viz., Vikraman and Tamizh have entered into real estate business and they have a company in the name of R.R.P. Housing Pvt. Ltd., apart from the other concerns like RRP Company and Nagar Properties. While so, one Seethapathy came into contact with Padmanabhan and his two sons and he wanted to purchase certain properties through RRP Housing Private Ltd.,

After several rounds of discussion and representation made by Padmanabhan and his sons, Seethapathi has paid a sum of Rs.1,90,00,000/- to Padmanabhan and his sons on various dates. Particularly, a sum of Rs.50,00,000/- was paid on 21.07.2012 directly to Nagar Properties by RTGS and the balance of Rs.1,40,00,000/- was paid by cheques. After having received a sum of Rs.1,90,00,000/-, Padmanabhan and his two sons were not registering the property in the name of Seethapathy and therefore, when Seethapathy started putting pressure on them, Padmanabhan gave a Power of Attorney dated 21.09.2012 in favour of Seethapathi's son Kannan in respect of Kodambakkam Property measuring 3043 sq.ft. While things stood so, one Sathyamurthy, the brother of Kasthuri, lodged a complaint, based on which, a case in Crime No.580 of 2012 was registered by the Central Crime Branch, Land Grabbing, Team - XV, against 1. M.Narayana Reddy, 2. N.Padmanabhan and 3.Anandan.

4. The crux of the allegation in FIR No.580 of 2012 is that the Kodambakkam property belongs to heirs of Rathinam and that, Kasthuri died on 07.06.2011 and after her death, some one had impersonated as Kasthuri and executed a Power of Attorney on 04.07.2011 to Narayana Reddy, on the strength of which, Narayana Reddy, sold the property to Padmanabhan. The said Padmanabhan was arrested by Central Crime Branch, in Crime No.580 of 2012 and only then, it came to the knowledge of Seethapathi that the property, for which, Padmanabhan had given the Power of Attorney on 21.09.2012 in favour of S. Kannan belongs to heirs of Rathinam. In this regard, Seethapathi lodged a complaint against Padmanabhan and his two sons, for having received Rs.1,90,00,000/- from him on various dates as stated above and not registering the property as assured by them and instead, for giving a property, which he has mutated. Challenging the FIR No.188 of 2015, Padmanabhan and his two sons have filed petition in CrI.OP.No.12714 of 2016 and Padmanabhan has filed a petition in CrI.OP.No.13779 of 2016 for a direction to the respondent police to complete the investigation in Crime No.580 of 2012 and file a final report. In the meantime, Seethapathy has also filed petitions in CrI.OP.11817 of 2014 & 5504 of 2016 for a direction to the respondent police to complete the investigation in Crime No.188 of 2015, in which, this Court directed the respondent to complete the investigation and file a final report within a period of six months.

5. Mr. Kaviyarasu, learned counsel for Padmanabhan and his two sons submitted that there are no allegations against the sons of Padmanabhan viz., Vikraman and Tamizh, in Crime No.188 of 2015, because they were not involved in the purchase of the land from Narayana Reddy.

6. This Court is unable to accept this submission, inasmuch as the allegation of Seethapathy is that he has approached Padmanabhan and his two sons, who were running business in the name of R.R.P.Housing Pvt., Ltd., RRP Estate and Nagar Properties and that, they had promised to register certain lands in his name, towards which, they have received Rs.1,90,00,000/- and on receipt of the same, they had handed over a property, over which they had no valid title.

7. In the considered opinion of this Court, there are prima facie materials as against Padmanabhan and his two sons in Crime No.188 of 2015 to proceed against and there is no merit in the case for quashing the FIR and accordingly, the petition in CrI.OP.No.12714 of 2016 is dismissed. Consequently, connected miscellaneous petition is closed. Coming to Crime No. 580 of 2012, this Court is of the view that it will serve the interest of justice, if the case in Crime No. 188 of 2015 and the case in crime No. 580 of 2012 are investigated by the same police officer since the cases are intertwined. However, the transactions in both the crime numbers are different and distinct and therefore, the registration of different FIRs is perfectly justifiable. Though two final reports can be filed in respect of two cases, yet if the trial is conducted simultaneously by the same Court, it will be easier for the Court to appreciate the evidence.

8. Under such circumstances, the investigation of the case in Crime No.188 of 2015 be transferred to the file of the Inspector of police CCB Team - 15 (LG) to be investigated along with crime No.580 of 2012 and the two final reports shall be filed as expeditiously as possible.

In view of the above, the criminal original petition in CrI.O.P.No.13779 of 2016 is closed.

Sd/-

Assistant Registrar(CS IV)

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Sub Assistant Registrar

sms

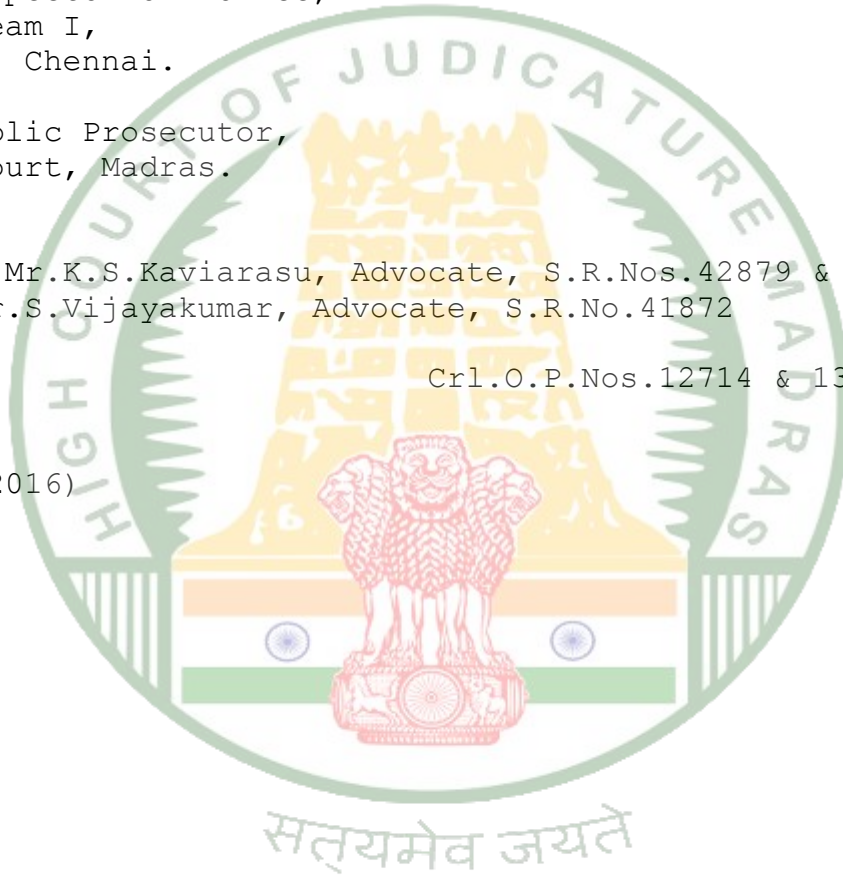
To

1. The Inspector of Police,
Central Crime Branch, Team I,
Vepery, Chennai.
2. The Inspector of Police,
CCB, Team XV,
Vepery, Chennai.
3. The Inspector of Police,
CCB, Team I,
Vepery, Chennai.
4. The Public Prosecutor,
High Court, Madras.

+2cc's to Mr.K.S.Kaviarasu, Advocate, S.R.Nos.42879 & 42880
+1cc to Mr.S.Vijayakumar, Advocate, S.R.No.41872

CrI.O.P.Nos.12714 & 13779 of 2016

MP1 (CO)
CA(22/08/2016)



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