

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.03.2017

CORAM:

THE HONOURABLE MR. JUSTICE V.BHARATHIDASAN

Criminal Revision No.491 of 2017
and
Crl.M.P.No.4370 of 2017

V.K.Aiyar

.. Petitioner

Vs

State by
The Inspector of Police,
CCIWCD,
Chennai - 600 040

.. Respondent

Prayer :-

This Criminal revision is filed under Section 397 and 401 of Cr.P.C., to set aside the order dated 22.04.2016 made in Crl.M.P.No.1028 of 2015 in C.C.No.672 of 2015 passed by the learned XI Metropolitan Magistrate, Saidapet, Chennai -15 .

For petitioner : Mr.P.Ayyaswamy

For respondent : Mr.R.Ravichandran,
Government Advocate(Crl. Side)

O R D E R

Challenging the order of dismissal passed by the learned XI Metropolitan Magistrate, Saidapet, Chennai in Crl.M.P.No.1028 of 2015 in C.C.No.672 of 2015, filed by the petitioner under Section 239 Cr.P.C to discharge him from the case, the present revision has been filed.

2. The case of the prosecution in brief is as follows:

The petitioner/A2 is a member of the M.R.L. Employees Co-operative Housing Society. A1 in this case is a special officer in the above said society. Earlier in the year 2003, to an extent of 13872 sq.ft. vacant site, which was reserved for public purpose in the lay out, has been allotted to the petitioner herein for a sum of Rs.6,00,000/-, but, the petitioner did not pay the allotment charges. Subsequently on 12.02.2010, A1 sold the property to the petitioner herein for a total sale consideration of Rs.11,04,000/-, which include

original allotment amount of Rs.6,00,000/- along with interest of Rs.5,04,000/- at the rate of 18%, and thereafter, on the very same day, the petitioner herein conveyed the property in favour of one Sandeepkumar Jain and Nithishkumar Jain for a total sale consideration of Rs.69,00,000/-.

3. Earlier, Government formulated guideline regarding fixation of price for selling house sites of the co-operative society and A1 and A2 in total violation of the guidelines fixed by the Government and without fixing the market price, based on the guidelines issued by the Government, A1 sold the property in favour of A2 for a sum of Rs.11,04,000/-, and on the very same day, A2 conveyed the property to a third party for a sale consideration of Rs.69,00,000/-. Earlier the proceedings under Section 81 of the Co-operative Societies Act has been initiated against A1 and based on the above, criminal case has been filed and after completion of investigation, final report has also been filed against the petitioner by the respondent police. The court below also taken cognizance of the offence and framed charges.

4. At this stage, the petitioner had filed the application seeking to discharge him from the charges on the ground that once the property sold in his favour, he has every right to transfer the property and only after the purchase of the land, he sold the property for the guideline value and if there is any dispute relates to under valuation, the Sub-Registrar of Registration Department only empowered to refer the document under Section 47-A of the Registration Act, and no prima facie case has been made out against the petitioner.

5. The trial court after considering the material available on record has held that there is a prima facie case made out against the petitioner to proceed against him and dismissed the application. Now, challenging the same, the present revision has been filed.

6. Mr. P.Ayyaswamy, learned counsel appearing for the petitioner would submit that originally in the year 2003, the property has been allotted in his favour and based on the allotment, the land was sold to him in the year 2010, thereafter he sold the property to a third party, as he have every right to sell the property being the owner of the property, and there is no criminal conspiracy on the part of the petitioner. Hence, there is no prima facie case made out against the petitioner for the offences charged against him.

7. I have considered the rival submissions and perused the materials available on record.

8. The matter relates to allotment of property by a housing co-operative society. Even though the property was allotted to the petitioner in the year 2003, he did not pay the allotment charges and in the year 2010, A1 special officer sold the property in favour of the petitioner without following the various guidelines issued by the Government and also without verifying the guide line value of the property for a meagre sum of Rs.11,04,000/-. Interestingly, on the very same day, the petitioner sold the property in favour of the third party for a sum of Rs.69,00,000/-. Then, an enquiry under Section 81 of the T.N.Co-operative society was initiated against A1 and a surcharge proceeding was also initiated against him and based on that, a case has been registered.

9. On perusing the material on record, I find that there is sufficient material available on record to proceed against the petitioner and the trial court also considered the entire material and dismissed the petition filed by the petitioner.

10. In the above circumstances, I find no illegality or irregularity in the order passed by the Court below. Hence, the revision deserves to be dismissed.

11. Accordingly the Criminal Revision is dismissed. Consequently, connected miscellaneous petition is closed.

Sd/-
Asst.Registrar

/true copy/

Sub Asst. Registrar

To

1. The XI Metropolitan Magistrate,
Saidapet, Chennai.

2. The Public Prosecutor,
High Court, Chennai.

Cr1.R.C.No.491 of 2017

GMI (CO)
VR(19/4/2017)