

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.08.2017

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THE HONOURABLE MR. JUSTICE M.S.RAMESH

Crl.O.P.Nos.791 to 793 of 2017

and

Crl.M.P.Nos.564 to 568 & 605 of 2017

R.Shanmugarajan ..Petitioner in all the Crl.O.Ps.

Vs

State rep. by
The Inspector of Police,
CCIWD, CID,
Chennai.

..Respondent in all the Crl.O.Ps.

Common Prayer: Criminal Original Petition filed under Section 482 Cr.P.C. to call for the records in C.C.No.672 to 674 of 2015, pending on the file of the learned XI Metropolitan Judicial Magistrate, Saidapet, Chennai and to quash the same.

For Petitioner : Mr.R.Gopinath, Sr. counsel
for Mr.M.Kaviveerappan

For Respondent : Mr.P.Govindarajan,
Additional Public Prosecutor

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COMMON ORDER

Heard the learned Senior counsel for the petitioner as well as the learned Additional Public Prosecutor appearing on behalf of the respondent.

2.The case of the prosecution is as follows:

The land measuring to an extent of 9 acres, 80 cents situated at VRD Nagar, Madhavaram Village, Tiruvallur Taluk was acquired for the purpose of allotment of house sites to the employees of Madras Refineries Limited Society and after approval by the MMDA, 94 sites out of 97 sites, were sold. In the year 2003, the petitioner herein was employed as a Special Officer of MRL Employees Housing Co-operative Society between 14.10.2008 to 19.05.2011. As per the circular of the Society's Registrar in Na.Ka.No.1674/2008/E4 dated 30.04.2009, the sale amount of the housing plots has to be determined on the basis of market value, guideline value and thereafter, on determination of the sale price by the Three Person Committee has stipulated under G.O.Ms.224 dated 27.11.2009, the Special Officer was required to execute the sale deeds. Since the petitioner had over looked the Circular as well as the Government Order and executed the sale deeds in favour of three members of the society and thereby causing financial loss to the society, these impugned proceedings have been initiated.

3.According to the learned Senior counsel for the petitioner, the petitioner was employed as a Special Officer between 14.10.2008 to

19.05.2011. Admittedly, the allotment of these three plots was made in the year 2003 itself and based on these allotments, the petitioner has allotted the house sites to three persons and therefore, it cannot be said that the petitioner had unilaterally taken a decision to execute these sale deeds. It is further submitted that the petitioner had also taken into consideration, the interest of the society and based on the allotment made in the year 2003, interest on the delayed payment at the rate of 18% p.a. was levied after following the procedures for executing the sale.

4.The learned Additional Public Prosecutor on the other hand submitted that the respondent police had conducted a fair and impartial investigation based on which it was revealed through the statement of the witnesses that the sites which were allotted to these three persons were reserved for school and commercial purpose which came to be sold by the petitioner for his personal profits. In view of the execution of these three sale deeds, the petitioner had caused a total loss to the society to the tune of Rs.1,39,69,384/- and therefore sought for dismissal of the petitions.

5.I have given careful consideration to the submissions made by the respective counsels.

6.It is not in dispute that the petitioner had executed the sale deeds in favour of the three persons and that these three plots were allotted for establishing school and reserved for commercial purpose. As per the Society Rules, prior sanction of the Co-operative Registrar was mandatory for the purpose of executing sale deeds and by following the guidelines stipulated in the Society Circular, it can be construed that the petitioner had executed the sale deeds on a sale amount much less than the guideline value for his personal gain. Above all, the fact as to whether the sale amount was fixed much below the guideline value has to be determined only by way of due trial and after appreciation of various material evidences and this Court exercising its power under Section 482 Cr.P.C., cannot go into the mixed question of facts. The claim of the petitioner that he had executed the sale deeds only in regard to the allotment made in the year 2003 alone cannot come to his rescue since the sale deeds were executed in total violation of the guidelines and circular of the society. If at all, the petitioner feels that he is genuine and bona fide in executing the sale deeds in favour of the three persons, it is always open to establish these facts after due trial through oral and documentary evidences. I am of the view that the petitioner has not made out a case requiring interference for quashing the proceedings by invoking the inherent powers of this Court under Section 482 Cr.P.C.

7.In the result, there is no merits in all these petitions.
Consequently all the Criminal Original Petitions stand dismissed.
Connected Miscellaneous Petitions are closed.

04.08.2017

Index:Yes/No

DP

To

1.The XI Metropolitan Magistrate,
Saidapet, Chennai.

2.The Public Prosecutor,
High Court, Madras.

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M.S.RAMESH.J,

DP



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