

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.12.2017

CORAM

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

CrI.O.P.No.23255 of 2017
and
CrI.M.P.Nos.13547 & 13548 of 2017

M.Venkatesan Petitioner/Accused-1

Vs.

The Deputy Superintendent of Police,
Central Bureau of Investigation (ACB),
Sastri Bhavan,
Haddows Road,
Chennai - 6. Respondent/Complainant

Prayer: Criminal Original Petition filed under Section 482 of Criminal Procedure Code, to call for the entire records connected with the proceedings of the charge sheet in C.C.No.1 of 2016 pending on the file of the learned Special Judge of Puducherry for CBI Cases and quash the same as far as the petitioner (A-1) is concerned.

For Petitioner : Mr.K.Thilageswaran

For Respondent : Mr.K.Srinivasan
Special Public Prosecutor (CBI Cases)

O R D E R

Petition to quash the charge sheet in C.C.NO.1/16 pending on the file of learned Special Judge of Puducherry for CBI Cases is filed by the first accused in the said case on the ground that no cognizable offence is made out against him who has registered the sale deed as (in charge) Sub-Registrar of Bahour, Pondicherry.

2. In the petition, it is averred that disciplinary proceedings were initiated against him by the department for the very same set of facts and he has been exonerated with the finding that no basis for any wrong doing as the Sub-Registrar while, registering the document and hence no action is recommended, it is contended by the counsel that his action of registering the sale deed through online process based on

standard format intimated by the official website of the registration department cannot be considered as abuse of process of law.

3. According to the petitioner, while he was (in charge) Sub-Registrar of Bahour, the said sale deed was presented through online. After perusing the sale deed, he had verified the guideline value and made the endorsement that there is deficit stamp duty and referred the matter to the District Registrar, who in turn after verifying the record had imposed stamp duty of Rs. 1,03,66,600/-. Pursuant to this order of the District Registrar dated 10.09.2009, the sale deed has been released to the purchaser. Having shown adequate diligence while registering the sale deed, the allegation that he had colluded with other accused persons and registered the document which he is not competent to do is wholly untenable and liable to be quashed.

4. Per contra, the learned Special Public Prosecutor submitted that during the course of investigation, it has been found that this petitioner former (in charge) Sub-Registrar along with the other public servants including the District Registrar and private persons had connived to alienate a property which was originally assigned to Pondicherry Paper Mills by the Government. After acquiring the lands from various land owners, while assigning the land, the terms of agreement carried a specific clause that in case of any failure on the part of the company then the land shall be resumed back by the Government to the company. The amount of the award has finally settled less the 15% awarded for compulsory acquisition. While so, when there is a specific bar in alienating the property by the representative of the paper mill, handing over to any third party is illegal and liable for prosecution.

5. This petitioner who was in charge of Bahour Sub-Registrar office had actively participated in alienating the Government land to the third party. The petitioner herein had issued fake encumbrance certificate in favour of Sub-Registrar and thereafter registered the sale deed on 10.09.2001. While the general power of attorney is registering the sale deed on behalf of the paper mills limited, the person in charge ought to have diligently looked into terms of the award. But for reasons best known, disregard the bar specified in the award, for extraneous reasons, the petitioner has registered the sale deed.

6. There is prima-facie material against this petitioner for his active participation in the illegal transfer of Government property by issuing nil encumbrance certificate without verifying the document, also registering the sale deed without looking into the 'terms of the award' mentioned in the

general power of attorney deed. Therefore, the complaint against him can not be quashed as prayed for.

7. Further, notice of this Court has also been brought by the learned Special Public Prosecutor that in the connected petition filed by the other accused, this Court has gone into the role of each of the accused persons and has dismissed CrI.O.P.No.3541/2017 dated 24.08.2017, I see no reason to differ from the finding rendered in the above said petition. Since there are enough materials against this petitioner in the alleged crime, it is matter for trial to prove his innocence or guilt and same cannot be short circuited.

8. Accordingly, the criminal original petition stands dismissed. Consequently, the connected miscellaneous petitions are closed.

Sd/-
Asst.Registrar (J)

/true copy/

Sub Asst. Registrar

To

1. The Deputy Superintendent of Police,
Central Bureau of Investigaion (ACB),
Sastri Bhavan,
Haddows Road,
Chennai - 6.
2. The Public Prosecutor,
High Court, Madras.

+1cc to Mr.K.Thilageswaran, Advocate sr.no.91393

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and

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