

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.10.2018

CORAM

THE HONOURABLE MR.JUSTICE P.RAJAMANICKAM

Crl.O.P.No.5625 of 2013

and

M.P.Nos.1 & 2 of 2013

Palanivelu

... Petitioner

Vs.

1.State by

The Inspector of Police,
District Crime Branch,
Salem.

(Crime No.29 of 2012)

2.K.S.Srinivasan

... Respondents

PRAYER: Criminal Original Petition is filed under Section 482 of the Code of Criminal Procedure, to call for the records relating to C.C.No.7 of 2013 on the file of the Judicial Magistrate No.IV, Salem, and quash the same.

For Petitioner : Mr.A.Panneer Selvam
for Mr.S.Gunalan

For Respondent 1 : Mr.T.Shunmugarajeswaran
Government Advocate (Crl. Side)

O R D E R

This petition has been filed by the petitioner/Accused2 to quash the proceedings against him in C.C.No.7 of 2013 on the file of the learned Judicial Magistrate No.IV, Salem.

2.The learned counsel for the petitioner has submitted that the petitioner, who is the owner of a vacant land in S.R.No.9/8B of S.Papparappatti Village measuring about 1716 Square feet. He further submitted that the petitioner has purchased the said property from one Kulanthaivelu (A1) under a registered sale deed dated 25.02.2010. The second respondent has entered into a sale agreement with the petitioner for purchasing the said property for a sum of Rs.77,000/- (Rupees Seventy Seven Thousand only) and subsequently obtained a sale deed dated 08.12.2010. He further submitted that on 18.11.2011, the second respondent has lodged a complaint before the first respondent stating that the petitioner herein has already created a mortgage by the original owner namely Kulanthaivelu (A1) by deposit of title deed with Indian Bank,

Veerapandi Branch on 31.03.2008 and suppressing the said fact, the petitioner has sold the property to the second respondent. He further submitted that the petitioner has not created any mortgage and therefore the petitioner cannot be prosecuted.

3.The learned Government Advocate (Criminal Side), who is appearing for the first respondent has submitted that already in C.C.No.7 of 2013, a trial was commenced and PWs.1 to PW.5 were examined and under the said circumstances, he requests to allow the Trial Court to complete the trial and dispose of the case on merits. He further submitted that the case has been transferred to the learned Judicial Magistrate No.VI, Salem and trial has commenced.

4.Considering the fact that already trial has commenced and PWs.1 to 5 were already examined before the trial Court, this Court is of the view that the trial Court should be allowed to complete the trial and dispose of the case on merits. Therefore, this petition is liable to be dismissed.

5.In the result, the Criminal Original petition is dismissed. Consequently, connected Miscellaneous Petitions are also closed.

Assistant Registrar
Sd/-

//True Copy//

Sub Assistant Registrar

To

- 1.The Inspector of Police,
District Crime Branch,
Salem.
- 2.The Judicial Magistrate Court No.IV,
Salem.
- 3.The Judicial Magistrate Court No.VI,
Salem.
- 4.The Public Prosecutor,
High Court, Madras.

Krd 23/10

CrI.O.P.No.5625 of 2013