

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.04.2018

CORAM

THE HONOURABLE MR. JUSTICE P.N.PRAKASH

Crl.O.P.No.10366 of 2018

and

Crl.M.P.No.5315 of 2018

N.Bhupesh Nagarajan ... Petitioner/Accused -2

Vs

1. State By:

The Inspector of Police,
J-7, Velachery Police Station,
Chennai.
(Crime No.1899 of 2017)

2. Leemaroselin ... Respondents

Prayer:Criminal Original Petition filed under Section 482 Cr.P.C. praying to call for the records in Crime No.1899 of 2017 on the file of the respondent police and quash the same.

For Petitioner : Mr.K.Ramanamoorthy

For Respondent 1 : Mrs.Kritika Kamal.P,
Government Advocate (Crl. Side)

ORDER

This Criminal Original Petition has been filed to quash the proceedings in Crime No.1899 of 2017 on the file of the respondent police.

2. The land in question belongs to one M.Sathyamurthy. The said Sathyamurthy had appointed one N.Bhupesh Nagarajan (A2) as a Chairman of M/s.Indira Projects and Developments (T) Private Limited to convert the lands into developed land and sell it as plots to various buyers. The defacto complainant booked one plot with A2 by paying an advance amount of Rs.50,000/- on 27.11.2016. Thereafter, the defacto complainant has also paid Rs.3,00,000/- on 21.12.2016, for which, a receipt was issued by A2.

3. It is the case of A2 that he had sent a mail to the defacto complainant on 03.04.2017 asking her to come for registration on 06.04.2017 and to pay the balance amount of Rs.3,70,000/-. In order to avoid the contract, it is alleged that the defacto complainant gave a complaint to the police, based on which, a petition enquiry was registered in C.S.R.No.348 of 2017. Thereafter, the defacto complainant filed a petition in Crl.O.P.No.14288 of 2017 for a direction to the Police to register an FIR. Based on the orders passed by this court on 28.07.2017, the Police have registered an FIR in Crime No.1899 of 2017 on 07.10.2017 under Section 420 of IPC against Nambirajan (A1) and Bhupesh Nagarajan (A2). Hence, A2 has filed the present petition to quash the FIR.

4. Heard Mr.K.Ramanamoorthy, learned counsel for the petitioner and Mrs.Kritika Kamal.P, learned Government Advocate (Crl. Side) for the 1st respondent.

5. The learned counsel appearing for the petitioner/A2 submitted that A2 has been authorised by the land owner, only to develop the land and to market it beyond that he has not been authorised to execute a Sale Deed. This has been misunderstood by the defacto complainant and she has hurriedly filed the present police complaint alleging that A2 is not willing to execute the Sale Deed. The learned counsel appearing for the petitioner/A2 further submitted that on paying the balance amount of Rs.3,70,000/-, A2 will ensure that the land owner executes the Sale Deed in favour of the defacto complainant.

6. On instructions, the learned Government Advocate (Crl.Side) appearing for the 1st respondent submitted that A2 never appeared before the police for enquiry and therefore, the police had to perforce register an FIR, based on the directions issued by this Court in Crl.O.P.No.14288 of 2017.

7. On a conspectus of the facts obtaining in this case, the transaction prima facie appears to be contractual, however, this Court is not inclined to quash the FIR, since the FIR has been registered, pursuant to the directions issued by this Court and also, on account of failure of A2 to appear for enquiry. The learned counsel appearing for the petitioner/A2 submitted that A2 has been granted anticipatory bail in Crl.O.P.No.26204 of 2017. In such view of the matter, there may not be any impediment for A2 to appear before the respondent police and submit all the documents for enquiry.

Hence, this petition is closed with a direction to the petitioner to appear before the respondent police and submit necessary documents and the police shall conduct the investigation within a period of three months from the date of

receipt of a copy of this order and close the FIR, if the investigation does not disclose the commission of any cognizable offence. Consequently, the connected Miscellaneous petition is closed.

s/d-
Assistant Registrar(CO)

True Copy

Sub-Assistant Registrar

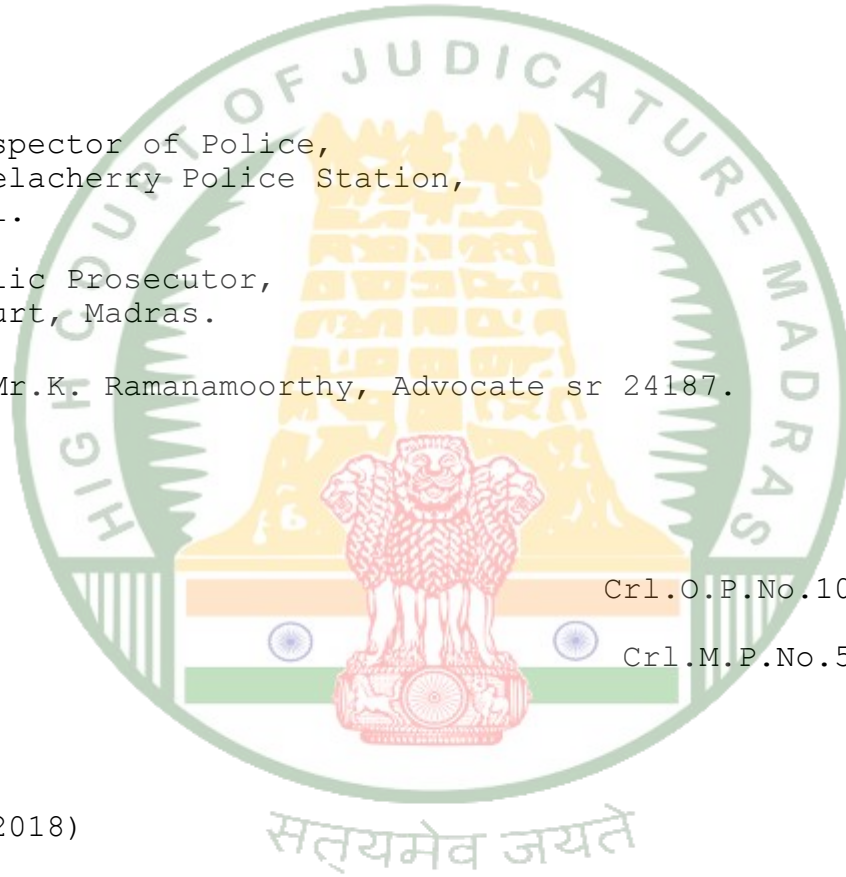
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To

1. The Inspector of Police,
J-7, Velacherry Police Station,
Chennai.

2.The Public Prosecutor,
High Court, Madras.

+1 CC to Mr.K. Ramanamoorthy, Advocate sr 24187.



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MP(CO)
SP(16/04/2018)

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