

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:29.10.2018

CORAM :

THE HONOURABLE Mr.JUSTICE M.DHANDAPANI

Crl.R.P.No.1198 of 2018

and

Crl.M.P.No.14138 of 2018

H.Veerakumar

.. Petitioner

/versus/

State rep.by its
The Inspector of Police,
District Crime Branch,
Thiruppur,
(Cr.No.1/2014)

.. Respondent

Criminal Revision Petition filed under Sections 397 and 401 of Cr.P.C praying to call for the entire records relating to the order of the Judicial Magistrate, Avinashi dated 09.04.2018 in C.M.P.No.870 of 2014 in C.C.No.83 of 2014 dismissing the discharge petition filed by the petitioner and set aside the same by allowing the present revision petition.

For Petitioner : Mr.G.Vinoth Kumar

For Respondent :Ms.S.Thankira, GA(crl.side)

O R D E R

This Criminal Revision Petition filed praying to call for the entire records relating to the order of the Judicial Magistrate, Avinashi dated 09.04.2018 in C.M.P.No.870 of 2014 in C.C.No.83 of 2014 dismissing the discharge petition filed by the petitioner.

2. The case of the petitioner is that the petitioner is allged to have colluded with the other accused and registered the deed of power of attorney dated 09.06.2009 and sale deed dated 12.06.2009, for which the District Registrar has given a complaint to register a case against the petitioner and other accused. Based on the complaint, the respondent-police has registered a case against the petitioner and other accused for the offences under Section 420 IPC r/w 109, 471 r/w 109 of IPC and Section 81 and 82 (d) of Registration Act 1908. After

completion of investigation, the respondent-police has filed the final report before the Judicial Magistrate, Avinashi and the same was taken on file in C.C.No.83 of 2014.

3. Thereafter, the petitioner has filed a petition to discharge the petitioner from the charges. After hearing elaborate arguments of the parties, the lower Court has dismissed the discharge petition filed by the petitioner on 09.04.2018 in C.M.P.No.870 of 2014 in C.C.NO.83 of 2014, against which the present Criminal Revision Case has been filed.

4. The learned counsel appearing for the petitioner would submit that there is no material to show that the petitioner had colluded with the other accused and registered the power of attorney and sale deed dated 09.06.2009 and 12.06.2009 respectively. Without any basis, the case was registered based on the complaint given by the District Registrar merely, implicating the petitioner and other accused person in the above said offence. However, the lower Court failed to consider the defence that the petitioner herein joined in the office of Sub-Registrar, Avinashi only on 13.09.2010 and it shows that the petitioner had no connection with regard to registration of power of attorney dated 09.06.2009 and sale deed dated 12.06.2009. Without considering the above said grounds, the lower Court has dismissed the discharged petition filed by the petitioner.

5. Learned Government Advocate(crl.side) would submit that the main accused 1 and 2 had sold the property in S.No.89 of 2002 to one Rajkumar for Rs.3,65,94,000/- by way of inducement that there is no encumbrance over the property in S.C.No.89 of 2002 and in turn, they obtained the property belongs to the said Rajkumar, who is the owner of the property by producing fake documents and the same was registered as Doc.No.10096/2012 with the help of this petitioner. On verification, it was found that the registered document is a fake one. Considering all these issues, the lower Court has arrived at a conclusion that all the issues are triable and accordingly, the discharge petition was dismissed by the lower court. Hence, there is no need to interfere with the judgment of the trial Court.

6. Heard both sides and perused the records.

7. The petitioner was working as Sub-Registrar from 23.09.2010 to 31.03.2013. In his power, the accused jointly executed the sale deed through bogus documents as if the power of attorney and the sale deed was executed in the year 2009 in favour of the accused persons. During his tenure, without verifying the entire documents, the petitioner has allowed to execute the sale deed in favour of the defacto complainant. All

those issues were elaborately discussed by the lower Cour and arrived at a right conclusion and dismissed the discharge petition. Here, this Court is also of the considered view that there are some prima facie materials implicating the petitioner for the abvoe offence. The defence putforth by the petitioner could be decided only after the trial and the defence of the petitioner is unsustainable one to discharge him at this stage. In view of the above, I do not find any error in the order of the trial Court. Accordingly, this criminal revision case is dismissed. However, it is made clear that without influencing the order of this Court, the trial Court shall pass the order in the main case on merits and in accordance with law. Consequently, connected Miscellaneous Petition is also dismissed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

1. The Judicial Magistrate, Avinashi
2. -Do- Thro: The Chief Judicial Magistrate, Thiruppur.
3. The Inspector of Police, District Crime Branch, Thiruppur.
4. The Public Prosecutor, High Court, Madras.

+1CC To Mr.S.Ramasamy, Advocate, Sr.No.74154

Cr1.R.C.No.1198 of 2018

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