

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 19.12.2018

CORAM:

THE HONOURABLE MR. JUSTICE V.PARTHIBAN

Crl.R.C.No.1495 of 2018 and

Crl.M.P.No.17429 of 2018

1. K.Santhakumar

2. S.Yasodha

...Petitioners/Accused 5 &6

Vs.

The Inspector of Police,
District Crime Branch,
Sathuvachari, Vellore.

...Respondent/Complainant

The Criminal Revision filed under Section 397 read with 401 of Code of Criminal Procedure against the order dated 10.10.2018 made in C.M.P.No.481 of 2018 in C.C.No.414 of 2017 on the file of the learned Judicial Magistrate No.II, (FAC) Vellore.

For Petitioners: Mr.G.Jeremiah

For Respondent : Mr.G.Harihara Arun Somasankar,
Government Advocate (Crl.Side)

ORDER

The present criminal revision case has been filed against the order passed by the learned Judicial Magistrate No.II, (FAC) Vellore, C.M.P.No.481 of 2018 in C.C.No.414 of 2017 dated 10.10.2018, dismissing the petition filed by the petitioners seeking to discharge them from the offences alleged against them.

2 According to the prosecution, there was a fraudulent transaction as between accused 1 to 6 and there was a criminal conspiracy also by all other accused in entering into such transaction. Hence a case was registered for the offence under Sections 420, 468, 467, 471 r/w 120 (b) of IPC against accused 1 to 6. The learned Judicial Magistrate after adverting to various materials, had come to definite conclusion that there was a prima facie material to proceed against all the accused including these petitioners. The learned Magistrate has given a detailed

reason as found in paragraph nos.2 and 3, which are extracted hereunder:

"2. It is the case of the prosecution that A1 and A2 along with their mother Ponnammal, as owner's of S.No.849/6 of Mosur Village, had executed a power of attorney in favour of Gunapolavaram, S/o. Ramakrishna Naidu and that A3 and A4 sons of Govindan together with the said Govindan had executed power of attorney in respect of their land in S.N.842/6 in favour of the same Gunapolavaram on 12.05.1994 and 19.08.1993, respectively. The said Gunapolavaram had sold the said lands in favour of K.Vadivelu and V.Parameswari, vide document No.3005/2006. Subsequently on 05.07.2007 A1 and A2 have again executed a general power of attorney in favour of K.Santhakumar in respect of the same extent of 1.38 cents in S.No.849/6 of Mosur village. A3 and A4 had executed a general power of attorney on 13.02.2008 in favour of the 1st petitioner herein, in respect of 2.33 ½ cents in S.No.842/6, vide document No.191/2008, which had already been sold in favour of K.Vadivelu and V.Parameswari, vide document No.3005/2006 by A1 to A4, through their power agent Gunapolavaram. The said Santhakumar as a power agent of A1 and A2 had sold the land in S.No.842/6 in favour of his own wife vide sale deed dated 19.02.2008 in respect of S.No.842/6 and by another sale deed dated 27.03.2008 in respect of 849/6.

3. The records produced by the prosecution and the 161 statements of witnesses prima facie shows that the lands in S.No.842/6 and 849/6 have been sold originally in favour of K.Vadivelu and his wife V.Parameswari and that there are subsequent sale deeds in favour of the 6th accused (2nd petitioner Yasodha) in respect of the same lands, by her husband, as power agent of A1 to A4. There is prima facie grounds available in this case, for framing of charges against the accused herein and accordingly this petition does not deserve indulgence."

3 From the above, it could be seen that there exists prima facie material to proceed against these petitioners and the learned Judicial Magistrate has rightly dismissed the petition. But the facts would disclose that the involvement of these petitioners in the fraudulent transaction in whatever measure of involvement, it is not open to these revision petitioners to seek discharge on the stated grounds by them in their petition. Once there is a

finding of fact in that regard about the existence of prima facie material against these petitioners, this Court is unable to appreciate as to how the discharge petition could be entertained and as to how the present revision case can be entertained further. On the whole, this Court does not find any infirmity in the order dated 10.10.2018 passed by the learned Judicial Magistrate No.II (FAC), Vellore in C.M.P.No.481 of 2018 in C.C.No.414 of 2017 and hence the present criminal revision case stands dismissed. Consequently connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS)

//True Copy//

Sub Assistant Registrar

cgi
To

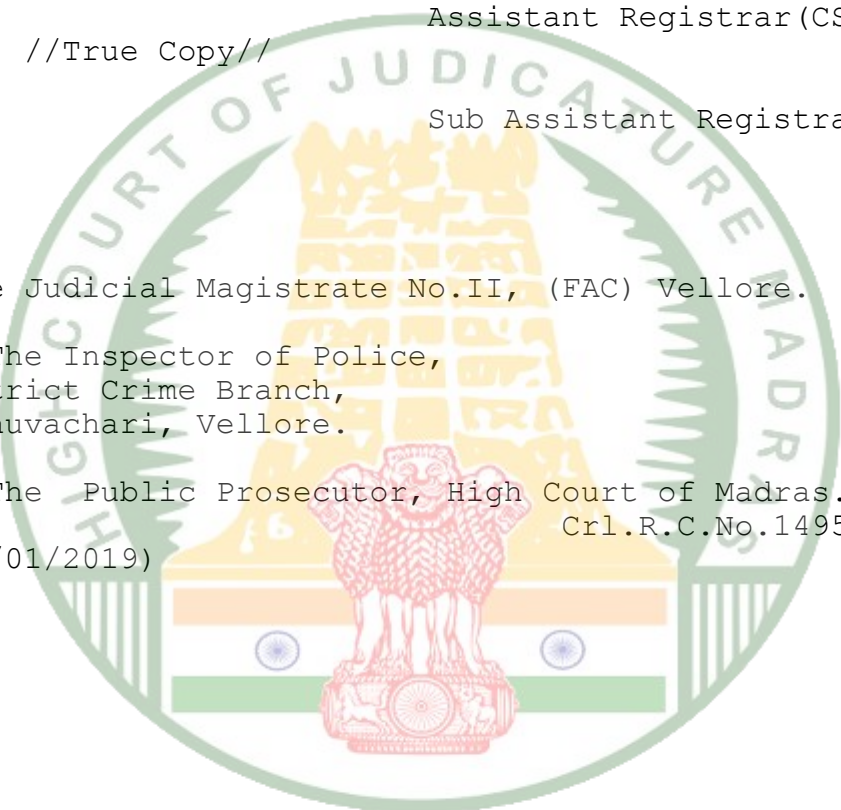
1. The Judicial Magistrate No.II, (FAC) Vellore.

2.The Inspector of Police,
District Crime Branch,
athuvachari, Vellore.

3.The Public Prosecutor, High Court of Madras.

CrI.R.C.No.1495 of 2018

A.SK(23/01/2019)

The seal of the High Court of Madras is a circular emblem. It features a central yellow temple gopuram (tower) with a red lion capital on top. Below the gopuram is a red elephant. The entire emblem is set against a green background with a white border. The words 'HIGH COURT OF JUDICATURE MADRAS' are written in a circular path around the emblem. At the bottom, the Sanskrit motto 'सत्यमेव जयते' (Satyameva Jayate) is inscribed in Devanagari script.

WEB COPY