

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.12.2019

CORAM:

THE HONOURABLE MR. JUSTICE P.VELMURUGAN

Crl.O.P.Nos.16462 & 16463 of 2013 and
M.P.Nos.1 & 1 of 2013

G.Saravanaperumal ... Petitioner in Crl.O.P.16462/13

S.Vijayalakshmi ... Petitioner in Crl.O.P.16463/13

Vs.

1. State Rep. by the Inspector of Police,
Central Crime Branch Team 16
Office of the Commissioner of Police,
Egmore, Chennai-8
Crime No.CCB, X.Cr.No.601/2011

2. Arunkumar ... Respondents in Crl.O.P.16462/13
(R2 impleaded as per order of this Court dated 11.07.2013
in M.P.No.2 of 2013 in Crl.O.P.No.16462 of 2013)

State Rep. by the Inspector of Police,
Central Crime Branch Team 16
Office of the Commissioner of Police,
Egmore, Chennai-8
Crime No.CCB,X.Cr.No.602/2011 ...Respondent in Crl.O.P.16463/13

PRAYER in both the OPs: Criminal Original Petitions filed
under Section 482 Cr.P.C. praying to call for the entire
records pertaining to the cases in C.C.No.4767 & 4768 of 2013
respectively in Crime Nos.CCB, X.Cr.No.601/2011 and CCB,
X.Cr.No.602/2011 on the file of the Special Metropolitan
Magistrate No.I under Land Grabbing Cases at Chennai and quash
the charges insofar as the petitioners are concerned.

For Petitioners: Mr.R.C.Paul Kanagaraj
- in both the Ops

For Respondents: Mr.R.Ravichandran,
Govt. Advocate (Crl.Side) for R1 in
O.P.16462/13 & for sole respondent
in O.P.16463/13

Mr.M.Ramalingam for R2 in
O.P.16462/13

COMMON ORDER

The respondent police registered a case against the petitioners herein and two others in the above crime numbers for the offence punishable under Sections 419, 420, 465, 468, 471 r/w 120(b) of IPC and after investigation laid charge sheets, which was taken on file in C.C.Nos.4767 & 4768 of 2013. During pendency of the above cases, accused 3 & 4 have approached this Court seeking to quash the above cases against them.

2 The learned counsel appearing for the petitioners would submit that the petitioners are the bonafide purchasers of the property in dispute and they are not aware of the forged power of attorney executed by A1 and A2 and only when the rent control proceedings were initiated by the defacto complaint on the ground of willful default, the petitioners came to knowledge of fraud played by A1 & A2. Even the confession statement made by A1 does not implicate these petitioners. The statements recorded under Section 161 of Cr.P.C also does not speak anything about the conspiracy of this petitioners with A1 & A2. All the above facts, in fact, have been stated in the rent control proceedings in the year 2007 itself. The petitioners are only innocent purchasers and they do not know anything about the fraud played by A1 & A2 and infact, the petitioners are victimised by A1 & A2 and the petitioners were under the impression that A1 is the lawful owner of the property. Therefore, the petitioners need not undergo the ordeal of trial and hence the cases against them are liable to be quashed.

3 Learned Government Advocate (Crl.Side) appearing for the respondent police would submit that all the four accused entered in to conspiracy and created forged power of attorney and based on the same, sale agreement was also executed and the petitioners herein have obtained order of injunction and had been enjoying the possession of the property and subsequently the Court, in the rent control proceedings held that the petitioners viz. A3 & A4 are not owner of the property. The stamp paper purchased by the petitioners in their name to create the sale agreement shows that it was purchased in the year 1999 and that too not in the place of property, it was purchased somewhere else and that itself shows that the petitioners are not bonafide purchasers. Further, prima facie there is materials to proceed against these petitioners and hence these petitions are liable to be dismissed.

4 Learned counsel appearing for the second respondent in Crl.O.P.No.16462/2013 would submit that these petitioners along two other accused have entered into conspiracy and created forged power of attorney and also executed the alleged

sale agreement and these petitioners were in illegal possession of the property. The Court below also in the rent control proceedings, has rightly held that these petitioners are not bonafide purchasers and ordered eviction.

5 Heard the rival submissions made on either side and perused the materials available on record.

6 It is seen that defacto complainant in Cr1.O.P.No.16462 of 2013 is owner of the property and he initiated rent control proceedings in R.C.O.P.No.1110 & 1111 of 2006 to evict the petitioners on the ground of willful default in paying the rent. In the said rent control proceedings, the petitioners herein have clearly averred the defence taken by them in the present petitions that they purchased the property from A1 and they were not aware of the forged power of attorney created by A1 & A2. There is no proof to show that these petitioners are fully aware of the fact that A1 is not the owner of the property and the power of attorney is forged one. The learned Government Advocate contended that prima facie there are materials and the petitioners must face the trial. But, on reading of the entire materials, none of the material shows that these petitioners conspired with A1 & A2 and they were aware of the fraud played by A1 & A2. However, now the original owner has got the property under due process of law and he is in possession of the property. In the absence of any materials proving that these petitioners have also conspired with A1 & A2 and merely the petitioners purchased the stamp paper in the name of the petitioners out of jurisdiction is not a sole ground to initiate criminal proceedings against them, this Court is inclined to quash the case against these petitioners.

7 Accordingly, the criminal original petitions are allowed and the case in C.C.No.4767 & 4768 of 2013 against these petitioners pending on the file of the learned Special Metropolitan Magistrate No.I under Land Grabbing Cases at Chennai, is hereby quashed. Consequently connected miscellaneous petitions are closed. The trial Court is directed to proceed the case against other accused and dispose of the same in accordance with law within a period of three months from the date of receipt of a copy of this order.

Sd/-

Assistant Registrar (CS-IV)

//True Copy//

Sub Assistant Registrar

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To

1. The Special Metropolitan Magistrate No.I
under Land Grabbing Cases at Chennai.

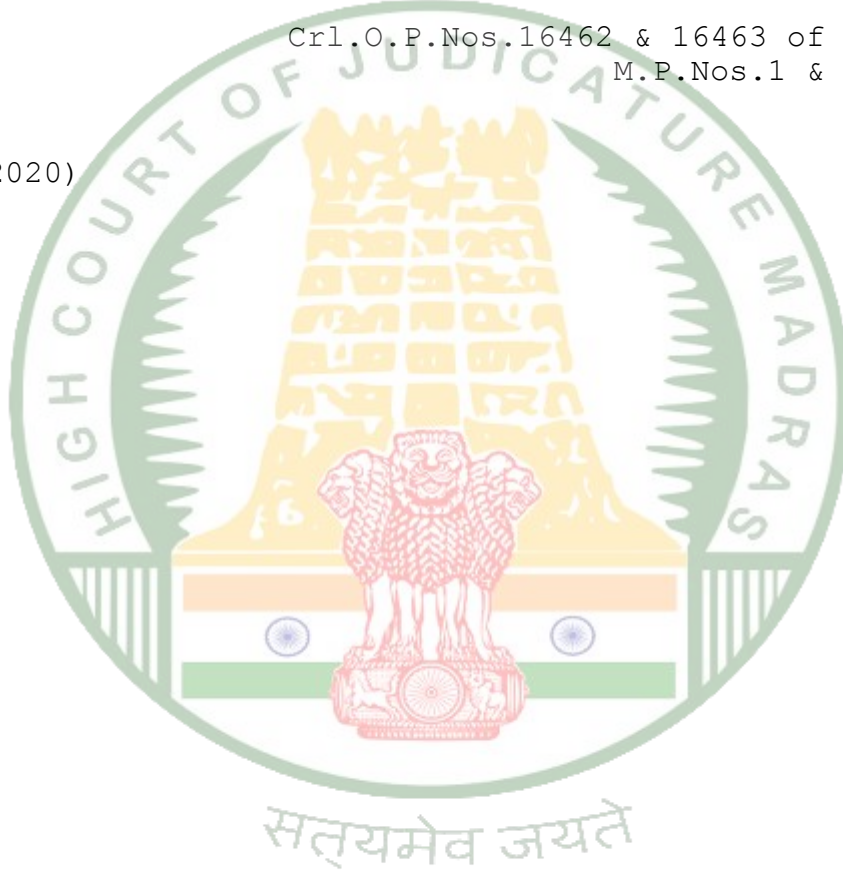
2. The Inspector of Police,
Central Crime Branch Team 16
Office of the Commissioner of Police,
Egmore, Chennai-8.

3. The Public Prosecutor, High Court, Madras.

+lcc to Mr.R.C.Paul Kanagaraj, Advocate SR.105100

Crl.O.P.Nos.16462 & 16463 of 2013 and
M.P.Nos.1 & 1 of 2013

NR(CO)
CB(02/03/2020)



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