



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on	Pronounced on
26.04.2019	30.04.2019

CORAM:

THE HONOURABLE MR.JUSTICE **P.N.PRAKASH**

CRL.OP[MD].No.6793 of 2014

and

M.P. (MD) .No.1 of 2014

P.Rukmani

: Petitioner/Accused No.3

Vs.

1.The State rep by the
Inspector of Police,
B1 Police Station,
Melur, Madurai District,
Crime No.157 of 2014.

2.Subramanian

3.Mangayarkarasi

: Respondents

[R-3] suo motu impleaded as per order dated 26.04.2019 made in Crl.OP (MD).No.6793 of 2014]

PRAYER: Petition is filed under Section 482 of the Code of Criminal Procedure to call for the records relating to the FIR in Crime No.157 of 2014, pending on the file of the first respondent police herein and quash the same.

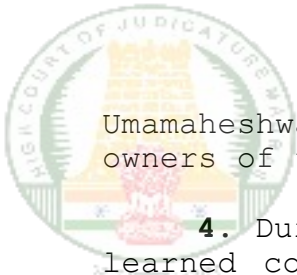
For Petitioner : Mr.J.Sulthan Basha
For M/s.Ajmal Associates
For Respondent No.1 : Mr.M.Chandrasekaran
Additional Public Prosecutor
For Respondent No.2 : Mr.J.Sankara Pandian
For Respondent No.3 : Mr.N.S.Karthikeyan
For Intervener

O R D E R

For the sake of convenience, the parties will be referred to by their name.

2. On the complaint lodged by Subramanian [*de facto* complainant], the second respondent herein, the first respondent registered a case in Crime No.157 of 2014, on 04.03.2014, under Sections 467, 471 and 420 IPC against K.Rukamani [A-1], W/o.K.Ganesan, Umamaheshwari [A-2], W/o.Kesavan and P.Rukmani, [A-3], W/o.Palanivel, for quashing which, P.Rukmani, [A-3] is before this Court.

3. It is alleged in the First Information Report that the property in question measuring 18 cents was purchased by the partners of Pandian Rubber Industries, in which K.Ganesan and Subramanian were partners along with others. It is further alleged that after the death of K.Ganesan, his widow - K.Rukmani and his widowed daughter-in-law -



Umamaheshwari [A-2] sold the property to P.Rukmani [A-3] as if they were owners of the property.

4. During the hearing of this quash application, Mr.N.S.Karthikeyan, learned counsel, [Enrollment No.1192/1997] intervened on behalf of one Mangaiyarkarasi and stated that Mangaiyarkarasi is the widow of one Meenakshisundaram, who was a partner in Pandiyan Rubber Industries along with late K.Ganesan and Subramanian; Meenakshisundaram had died and therefore, his widow Mangaiyarkarasi has right in the property in dispute; Mangaiyarkarasi also lodged a police complaint for the same transaction, but, the police had not taken any action on her complaint, since already the present First Information Report in Crime No.157 of 2014 had been registered. Therefore, Mangaiyarkarasi wanted to implead herself in this quash application to support Subramanian. Hence, this Court *suo motu* impleaded Mangaiyarkarasi as Respondent No.3, by order dated 26.04.2019 and heard Mr.N.S.Karthikeyan, learned counsel also.

5. Mr.J.Sulthan Basha, learned counsel for P.Rukmani [A-3] submitted that there is absolutely no suppression of fact and that his client is a *bona fide* purchaser from K.Rukmani and Umamaheshwari and hence, the First Information Report is an abuse of process of law.

6. This was strongly refuted by the learned counsel for Subramanian and Mangaiyarkarasi, who submitted that there are *prima facie* materials in the complaint and so, the First Information Report should not be quashed.

7. This Court gave its anxious consideration to the above submissions made by the learned counsel on either side.

8. It is true that when the First Information Report discloses commission of a cognizable offence, the same should not be quashed at the threshold. However, when it is shown that the allegations in the First Information Report are far from the truth, then, this Court would have no hesitation in quashing the First Information Report.

9. A reading of the sale deed dated 19.01.2011, under which P.Rukmani [A-3] purchased the property from K.Rukmani [A-1] and Umamaheshwari shows that there was no suppression or distortion with regard to the tracing of the title to the property. In the sale deed, it is clearly stated that the property was purchased in the name of Pandiyan Rubber Industries and that K.Ganesan was running the industry and after his death, the property devolved on his widow [K.Rukmani] and the wife of his pre-deceased son [Umamaheshwari].

10. Mr.J.Sulthan Basha, learned counsel for P.Rukmani [A-3] conceded that the property was purchased by the partners of Pandiyan Rubber Industries, namely, K.Ganesan, K.Meenakshisundaram, K.Subramanian and K.Nagarajan. The partnership amongst these four persons commenced in the year 1972 and the partnership underwent several changes in course of time. A few new partners were inducted in the firm. The firm had obtained loan from Dena Bank, Madurai Branch, for the development of the business and was not able to repay the loan amount. The partners dissolved the firm with effect from 31.08.1977 and entered into a dissolution deed, by and under which, all the others except K.Ganesan resigned from the partnership and K.Ganesan was permitted to run the



company either as sole proprietor or as a partner with others.

11. This Court perused the dissolution deed dated 31.08.1977, which bears the signatures of 11 parties, wherein clause (5) clearly shows that K.Ganesan would continue to run the firm and that the others are withdrawing from the partnership. In the said dissolution deed, it is also stated that K.Ganesan will have to discharge the liabilities to the bank and the others will not have any liability. Dena Bank, from where the loan was availed, filed a Civil Suit in O.S.No.904 of 1980 before the Sub-Court, Madurai, against Pandiyan Rubber Industries and 12 partners, including K.Ganesan, Meenakshisundaram and Subramanian, for recovery of money. In the said suit, the partners took a specific defence that the partnership was dissolved on 31.08.1977 and that all the other defendants, except K.Ganesan, cannot be mulcted with any liability. Of course, the Trial Court did not accept this contention, but, decreed the suit by holding that when the loan was availed, all the defendants were partners and therefore, they cannot be absolved of the liability, just because they had resigned from the partnership subsequently on 31.08.1977. It is also submitted that it was K.Ganesan, who had completely discharged the liability to the bank.

12. This Court is aware that disputed questions of fact cannot be gone into in a quash application, but, these facts are culled out from the Judgment in O.S.No.904 of 1980 filed before the Sub-Court, Madurai. Admittedly, K.Ganesan died in the year 1995 and the sale was effected by his widow and daughter-in-law to P.Rukmani [A-3] only in the year 2011. Even patta stands in the name of K.Rukmani and her daughter-in-law. However, the learned counsel for Meenakshisundaram and Subramanian submitted that they have taken steps to cancel the patta. This itself shows that when P.Rukmani purchased the property, the patta stood in the name of K.Rukmani and her widowed daughter-in-law.

13. Thus, in the opinion of this Court, P.Rukmani is a *bona fide* purchaser for a valuable consideration and if the erstwhile partners of Pandiyan Rubber Industries are aggrieved over the sale, it is always open to them to file a civil suit for declaring the sale as null and void. Instead of initiating civil proceedings, prosecution in the year 2014 has been launched in respect of the purchase made by P.Rukmani in the year 2011. Under such circumstances, this petition deserves to be allowed.

14. In the result, this Criminal Original Petition is allowed and the First Information Report in Crime No.157 of 2014, pending on the file of the first respondent police herein stands quashed, insofar as it relates to P.Rukmani [A-3] alone. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (CRL SIDE)

// True Copy //

Sub Assistant Registrar (CS)



To

1. The Inspector of Police,
B1 Police Station,
Melur, Madurai District.

2. The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

+1CC TO MR.N.S.KARTHIKEYAN, Advocate Sr. No.65146

ORDER MADE IN
CRL.OP[MD].No.6793 of 2014
30.04.2019

MT(CO)

TR (10.05.2019) 4P 4C