



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 05.08.2019
CORAM:

THE HONOURABLE MR.JUSTICE V.BHARATHIDASAN

Cr1.O.P. (MD) No.12580 of 2014
and
M.P. (MD) Nos.1 and 2 of 2014

Murthuza Ali

: Petitioner

Versus

1.The State rep., by
The Inspector of Police,
District Crime Branch,
Madurai,
(In Crime No.12 of 2010).

2.Vengu Reddy

: Respondents

Prayer: Petition is filed under Section 482 of the Criminal Procedure Code praying to call for the records relating to the charge sheet in C.C.No.241 of 2013 on the file of the Judicial Magistrate Court No.I, Madurai and quash the same as illegal insofar as the petitioner is concerned.

For Petitioner : Mr.J.Sulthan Basha,
For M/s.Ajmal Associates

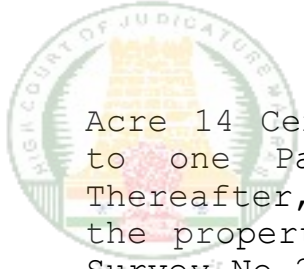
For Respondent No.1 : Mr.K.K.Ramakrishnan,
Additional Public Prosecutor

O R D E R

This petition has been filed to quash the criminal proceedings in C.C.No.241 of 2013 on the file of the Judicial Magistrate Court No.I, Madurai.

2. Totally, there are five accused in C.C.No.241 of 2013. The petitioner is arrayed as the first accused. The petitioner stood charged for the offences under Sections 406, 420, 468, 471 and 120-B of the Indian Penal Code. Now, to quash the said proceedings, the present petition has been filed.

3. The case of the prosecution is that, the second respondent/defacto complainant is the Manager of one Shri Hari Enterprises. The said Industry intended to purchase some properties. The petitioner, claiming to be a land broker, informed the second respondent/defacto complainant, that lands having an extent of 3



Acre 14 Cents in Survey Nos.215/6A, 7, 8, 9, and 216/1B, belonging to one Pandian, Batrakali and Bose, are available for sale. Thereafter, the petitioner/first accused arranged for purchase of the property. Later on, it is found that an extent of 51 cents in Survey No.216/1B, belongs to one Palaniammal, during the UDR survey, patta has been wrongly issued in the name of the second accused. Knowing fully well that the property does not belong to the second accused, all the accused conspired together and sold the property to the second respondent/defacto complainant. Thereafter, the second respondent/defacto complainant approached the petitioner and other accused, and they have also assured that they would provide alternative site or pay the cost of the land, but, they have failed to do so. Hence, the complaint has been filed. After investigation, a final report has been filed. The learned Judicial Magistrate No.1, Madurai, has taken cognizance of the offence. Now, to quash the said criminal proceedings, the present petition has been filed.

4. The learned counsel appearing for the petitioner submitted that, the petitioner has nothing to do with the ownership of the land. Even, as per the allegation made in the complaint, the petitioner/first accused is only a land broker and on the date of sale, the patta stands in the name of the second accused. He was also under the belief, that the land belongs to A-2 and arranged for the purchase of the land in favour of the second respondent, he has no mala fide intention to cheat the second respondent. That apart, so far, the alleged original owner, namely Palaniammal has not claimed any right over the property. After purchasing the property, now the patta also stands in the name of Sudha Reddy, wife of Sudhakar Reddy, the owner of Shri Hari Enterprises and they are only enjoying the property. The petitioner has been falsely implicated in this case. Thus, the learned counsel appearing for the petitioner seeks to quash the criminal proceedings initiated against the petitioner.

5. Per contra, the learned Additional Public Prosecutor appearing for the first respondent, on instructions, submitted that the materials collected during investigation clearly reveal that the petitioner along with the other accused cheated the second respondent/defacto complainant and sold the property belonging to some third party, after fully aware of the fact that the land does not belong to the second accused. In the above circumstances, the petitioner has been made as an accused with the aid of Section 120-B of the Indian Penal Code.

6. I have considered the rival submissions and also perused the records carefully.

7. The specific case of the prosecution is that, an extent of 51 cents in Survey No.216/1B originally belongs to one Palaniammal, and during the UDR scheme, patta has been wrongly issued in the name of the second accused, being aware of the fact that the second accused is not the original owner of the property, Accused Nos.2 to 5 along with the petitioner conspired together and



sold the property to the second respondent and thereby, cheated the second respondent.

8. From the perusal of the materials collected during investigation, it could be seen that the petitioner said to have acted as a broker, and it is also seen that on the date of sale, the patta stands in the name of the second accused. Even assuming that the land does not belong to the second accused, there is no material available on record to show that the petitioner was aware of the fact that the land belongs to Palaniammal. Even, from the statements of L.W.1 and L.W.2, it could be seen that the petitioner only introduced the land owners to the second respondent. Absolutely, there is no material available to show that, the petitioner was also aware of the fact that the land belongs to Palaniammal. No material is available to show that the petitioner was also part of the conspiracy. In the above circumstances, the materials collected during investigation do not prima facie constitute any offence against this petitioner. Hence, the criminal proceedings insofar as the petitioner herein is liable to be quashed and accordingly, quashed. The learned Judicial Magistrate No.I, Madurai, is directed to proceed with the trial in respect of other accused, namely Accused Nos.2 to 5.

9. In fine, the Criminal Original Petition is allowed. Consequently, the connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar

// True Copy //

Sub Assistant Registrar(CS)

To

1.The Judicial Magistrate Court No.I, Madurai.

2.The Inspector of Police,
District Crime Branch, Madurai.

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

+1 CC to M/s.AJMAL ASSOCIATES, Advocate (SR-80350[F] dt.07/08/2019)

Order made in
Crl.O.P.(MD) No.12580 of 2014
Dated: 05.08.2019

SML

JMN(21.08.2019) 3P : 5C

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