

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.01.2020

CORAM

THE HONOURABLE Mr.JUSTICE M.DHANDAPANI

Crl.O.P.No.1498 of 2013, W.P.No.2113 of 2013
M.P.Nos.1,2 and 3 of 2013 in W.P.No.2113 of 2013 and
M.P.No.1 of 2013 in Crl.O.P.No.1498 of 2013

Crl.O.P.No.1498 of 2013:

N.Koilraj ... Petitioner/Accused

Vs.

1.The Sub-Inspector of Police,
Central Crime Branch,
Wing II Team I,
Egmore, Chennai - 600 008.

2.L.Rajendran ... Respondents/Complainant

PRAYER in Crl.O.P.No.1498 of 2013:: Criminal Original Petition
filed under Section 482 of the Criminal Procedure Code, to call
for the records on the file of the 1st respondent under Crime
No.159 of 2012 and quash the same.

For Petitioner : Mr.K.S.Ramakrishnan
for Ms.V.Suganya

For Respondents : Mr.C.Iyyapparaj,
Additional Public Prosecutor for R1
Mr.M.A.Rua for R2

W.P.No.2113 of 2013:
C.Daniel

... Petitioner

Vs.

1. Secretary,
Ministry of Home Affairs,
Government of Tamil Nadu,
Fort St. George,
Chennai - 600 009.
2. The Commissioner of Police,
Egmore, Chennai - 600 008.
3. The Sub-Inspector of Police,
Central Crime Branch,
Wing II Team I,
Egmore, Chennai - 600 008.

4. L. Rajendran

... Respondents

PRAYER in W.P.No.2113 of 2013:: Writ Petition filed under Article 226 of the Constitution of India seeking a writ of certiorari calling for the records on the file of the 3rd respondent under Crime No.159 of 2012 and quash the same.

For Petitioner : Mr.K.S.Ramakrishnan
for Ms.V.Suganya

For Respondents : Mr.C.Iyyapparaj,
Additional Public Prosecutor
for R1 to R3
Mr.M.A.Rua for R4

O R D E R

This Criminal Original Petition has been filed under Section 482 of the Criminal Procedure Code, to call for the records on the file of the 1st respondent under Crime No.159 of 2012 and quash the same and the Writ Petition has been filed seeking to call for the records on the file of the 3rd respondent under Crime No.159 of 2012 and quash the same. The prayer in the criminal original petition and the writ petition is one and the same challenging the crime No.159 of 2012.

2. The case of the prosecution is that a complaint has been lodged by the 2nd respondent before the 1st respondent police against the petitioner on 20.09.2012 alleging that the petitioner had agreed to purchase the land of an extend of 21 cents in S.No.14/5G and 22 cents in S.No.14/5H of the Kasapuram Village, Tambram Taluk, Kancheepuram District for a sale

consideration of Rs.86,00,000/- and the 2nd respondent is the power agent of the owner L.Chellappan. In the subject property, there was some litigation and inspite of the same the petitioner was willing to purchase the same. There are 2 criminal complaints and 3 civil suits pending with respect to the subject property at the time of sale transaction. According to the defacto complainant, at the time of registration, the petitioner had removed the 8th page of the sale deed and forged his signature and got the sale deed registered for Rs.10,00,000/- on 08.11.2010. Thereby, the case registered against the petitioner in Crime No.159 of 2012. Thereafter, he was arrested and remanded to judicial custody. Against which the present quash petition is filed.

3. The learned counsel appearing for the petitioner would submit that the petitioner did not commit any offence. A vexatious case has been registered against the petitioner. For the very same subject property there are 2 criminal complaints and 3 civil suits pending before different forum. The necessary ingredients for cheating has not been satisfied. Hence, he prays for allowing this petition.

4. The learned Additional Public Prosecutor would submit that on a complaint given by the 2nd respondent, the law enforcing agency had registered a case in Crime No.159 of 2012. Thereafter, the law enforcing agency investigated the matter and cognizable offence was made out and then the charge sheet has been laid before the appropriate jurisdiction.

5. The very same issue has been considered by the Hon'ble Apex court and had laid down the principles which are required to be taken into consideration by the High Court while exercising its jurisdiction under Section 482 of Cr.P.C for quashing the proceedings. The following observation was made by the Apex court in State of State of Haryana Vs. Bhajan Lal reported in AIR 1992 Supreme Court 604

''(i)Where the allegations made in the First Information Report or the complaint, even if they are taken at their face value and accepted in their entirety do not prima facie constitute any offence or make out a case against the accused.

(ii)Where the allegations in the First Information Report and other materials, if any, accompanying the FIR do not disclose a cognizable offence, justifying an investigation by police officers under S.156 (1) of the Code except under an order of a

Magistrate within the purview of S.155(2) of the Code.

(iii)Where the uncontroverted allegations made in the FIR or complaint and the evidence collected in support of the same do not disclose the commission of any offence and make out a case against the accused.

(iv)Where, the allegations in the FIR, do not constitute a cognizable offence but constitute only a non-cognizable offence, no investigation is permitted by a police officer without an order of Magistrate as contemplated under S.155(2) of the Code.

(v)Where, the allegations in the FIR or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused.

(vi)Where there is an express legal bar engrafted in any of the provisions of the Code or the concerned Act (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/or where there is a specific provision in the Code or the concerned Act, providing efficacious redress for the grievance of the aggrieved party.

(vii)Where a criminal proceeding is manifestly attended with malafide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge.''

6. Keeping in mind of the aforesaid principles, the Writ petition has been filed by one C.Daniel challenging the very same FIR. The petitioner in criminal original petition was arrested and based on his confession statement the petitioner in the writ petition was implicated in the case. In view of the above facts and circumstances and in view of the fact that cognizable offence has been made out against the petitioner and that there is prima facie case to proceed against the petitioner, rendering any opinion on the merits of the case would adversely affect the case of the petitioner during the trial and it will influence the trial court. Hence, this court refrains from expressing any opinion on the merits of the case

and finds prima facie case disclosed against the petitioner.

7. In view of the above, both the criminal original petition and the writ petition are dismissed. Consequently, the connected Miscellaneous Petition is also closed.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

dsa

To

1. Secretary,
Ministry of Home Affairs,
Government of Tamil Nadu,
Fort St. George,
Chennai - 600 009.
2. The Commissioner of Police,
Egmore, Chennai - 600 008.
3. The Sub-Inspector of Police,
Central Crime Branch,
Wing II Team I,
Egmore, Chennai - 600 008.

Copy to:

The Section Officer,
Criminal Records,
High Court of Madras, Chennai.

+2cc to Mr.M.A.Rua, Advocate SR.2179,2180

+4cc to Mrs.V.Suganya, Advocate SR.2178,2177

CrI.O.P.No.1498 of 2013

and

W.P.No.2113 of 2013

PP(CO)
CB(19/02/2020)

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