

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 07.12.2020
PRONOUNCED ON : 15.12.2020

CORAM:

THE HON'BLE MR.JUSTICE P.N.PRAKASH

Crl.O.P. No. 15433 of 2016 & Crl.M.P. No. 7630 of 2016

Sanjay Kumar Rath

Petitioner

vs.

1 State rep. By
The Inspector of Police (Crime)
E-1, Mylapore Police Station
Mylapore, Chennai 600 004

2 Sheela

Respondents

Criminal Original Petition filed under Section 482 Cr.P.C. seeking to quash the First Information Report in Crime No.1224 of 2016, pending investigation on the file of the first respondent police and quash the same as against the petitioner.

For petitioner Mr. V. Vijayakumar

For R1 Mrs. P. Kritika Kamal
Govt. Advocate (Crl. Side)

For R2 Mr. A. Sundaravadanam
for Mr.V.Raghavachari

ORDER

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

2 Sheela, aged 45 years, who is the respondent herein, is the wife of Sanjay Rath, aged 50 years, who is the petitioner herein. On a complaint lodged by Sheela, the police registered a case in Cr. No.1224 of 2016 on 06.06.2016 under Section 379 IPC against Sanjay Rath, for quashing which, Sanjay Rath is before this Court invoking Section 482 Cr.P.C.

3 It is the case of Sheela that she got married to Sanjay Rath in 1997 and they have two sons; she got estranged from Sanjay Rath and filed divorce proceedings in H.M.O.P. No.15 of 2014 in the Sub Court, Tambaram and the same is pending; she is the owner of a plot measuring 2,107 sq. ft. in Varadharajapuram Village, which according to her, she had purchased from and out of her own funds; on 23.06.2014, she had left the original title deeds of the said plot in her bike parked near Karaneeswarar Pagoda Street; when she came back, she found the bag containing the original title deeds missing; hence, she gave a complaint to the police on 30.06.2014, which was taken on file as complaint no.198 of 2014 under the head "missing documents" and the police issued a non-traceable certificate to her.; on the strength of the non traceable certificate, she sold the property to one Gajendran by a deed of sale dated 04.08.2014 registered as document no.6215 of 2014; on 07.08.2015, she was surprised to learn from the counter affidavit filed by her husband in M.C. No.14 of 2015 (maintenance case that was filed by Sheela Rath under Section 125 Cr.P.C. before the Judicial Magistrate Court, Tambaram) that he is having the original title deeds of the plot; thereafter, she lodged the present complaint alleging that he had stolen the original title deeds of the plot, based on which, the police have registered the present FIR, as stated above.

4 The learned counsel for Sanjay Rath submitted that Sheela had no means to purchase the property and that it was Sanjay Rath who had purchased the property in her name and so, he has all along been having the original title deeds of the plot with him. He also submitted that Sanjay Rath filed a suit in O.S. No.500 of 2015 in the District Munsif-cum-Judicial Magistrate Court, Sriperumbudur, against Sheela and the purchaser Gajendran for declaring the sale made to Gajendran as null and void.

5 The learned counsel for Sheela submitted that when the complaint discloses the commission of a cognizable offence, this Court should not quash the FIR.

6 This Court gave its anxious consideration to the rival submissions.

7 The complaint does not state that it was Sanjay Rath who had stolen the documents from Sheela on 23.06.2014. Sheela wants the police to infer from the admission of Sanjay Rath that he was the thief. According to Sheela, she lost the original title deeds on 23.06.2014 and within two months, she sold the property to Gajendran on the strength of the non traceable certificate issued by the police and Gajendran also purchased the property without demur, knowing full well that the original

title deeds would not be made available to him. On the face of it, this Court is able to see that the FIR in this case is a clear abuse of process of law and hence, is liable to be quashed.

In the upshot, the FIR in Crime No.1224 of 2016 on the file of the first respondent police is quashed and as a sequel, this criminal original petition is allowed. Connected CrI.M.P. is closed.

Sd/-

Assistant Registrar(CJ CONF)

//True Copy//

Sub Assistant Registrar

cad

To

1The Inspector of Police (Crime)
E-1, Mylapore Police Station
Mylapore, Chennai 600 004

2The Public Prosecutor
Madras High Court
Chennai 600 104

+2cc to M/s.V.Vijayakumar, Advocate, S.R.No.40879
+1cc to M/s.V.Raghavachari, Advocate, S.R.No.41241

CrI.O.P. No. 15433 of 2016

RP(CO)
KKV/06/01/2021

सत्यमेव जयते

WEB COPY