IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 09.03.2020
PRONOUNCED ON : 03.06.2020

CORAM

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

Crl.O.P.No.14190 of 2010 and
Crl.M.P.No.1 of 2010

Krishnan ... Petitioner

Vs.

1.The State,
Represented by the Sub-Inspector of Police,
Central Crime Branch,
Team-XV-A, Egmore,
Chennai-600 008.

2.S.A.Bheemaraja ... Respondents

[The 2nd respondent is impleaded as per the order of this Court dated 03.12.2018 made in Crl.M.P.No.9499 of 2018 in Crl.O.P.No.14190 of 2010.]

PRAYER: Criminal Original Petition is filed under Section 482 of the Code of Criminal Procedure, to call for the records and quash the proceedings in C.C.No.6526 of 2010 on the file of the XI Metropolitan Magistrate Court at Saidapet, Chennai.

For Petitioner	:	Mr.A.Ramesh, Senior Counsel for Mr.C.Arun Kumar
For R1	:	Mr.S.Karthikeyan Additional Public Prosecutor
For R2	:	Mr.R.Chakkaravarthy

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ORDER

The petitioner/accused in C.C.No.6526 of 2010 pending trial on the file of the XI Metropolitan Magistrate Court, Saidapet, Chennai for the offence under Sections 447 r/w 420, 465, 467, 468 r/w 471 of IPC, has filed this quash petition.

2.The case of the prosecution is that one Yashodammal and Premila purchased plot No.4 in survey No.241/1C in TANSI Nagar, Taramani Road, Velacherry through document No.2181/01 and 2182/01, dated 01.06.2001 of 2187 and 2062 sq.ft, totally 4249 sq.ft from Ethiraj and Ramamurthy sons of Narashimalu Naicker. Yashodammal and Premila executed power of attorney in favour of one Benny Mathew to sell the property through registered power document Nos.1069 and 1070 of 2007, dated 16.04.2007. The said property was conveyed by way of sale deed to one Beemaraja by document No.3648/07 and 3649/07, dated 23.08.2007 for total sale consideration for Rs.63,74,259/-. The purchaser Beemaraja/2nd respondent visited the property.The petitioner/accused Krishnan claimed that the property is in his possession and belonged to him and he had obtained power connection and put up construction. Further, the patta issued in the name of Yashodammal and

Premila were cancelled at the instance of the petitioner and the petitioner is presently holding patta in his name. The land is a Government poramboke land and it is under his continuous, enjoyment for decades. Further claimed that Ethiraj son of Narashimalu Naicker, who is vendor to Yashodammal and Beemaraja had executed an agreement for sale of plot to his wife Rani on 07.08.1978 and a substantial amount of sale consideration was already paid. During investigation, it was found that the petitioner had given false particulars, made false claim and created forged documents as though the land is a government poramboke land and executed a forged indemnity bond and made representation to the authorities knowingly he is not the owner or got any right over the property. Hence, a case came to be registered. During investigation LW1 to LW9 were examined and several documents from the registration authorities, revenue authorities, TNEB and from Land and Survey Authorities were obtained and thereafter, charge sheet came to be filed.

3.The contention of the learned senior counsel for the petitioner is that the trial Court failed to apply its judicial mind to the facts that whether alleged overtact of the petitioner meet out the ingredients of offence narrated in the final report. The trial Court mechanically taken the case on file and issued summons to the petitioner. As early as 1978, the petitioner's wife had entered into an agreement of sale with Ethiraj, the then owner of the said property. The sale consideration had been paid. Thereafter, his wife Rani was put in possession of the property. The said Ethiraj failed to execute any sale deed from 1978. The petitioner is in continuous possession and enjoyment of the said property by putting up super structure in the property and have been paying all the taxes to revenue and municipal authorities till date. The continuous possession and enjoyment is well within the knowledge of the legal heirs of Narashimalu Naicker namely Ethiraj and Ramamurthy. During the year 1996, the said Narashimalu Naicker died, the legal heirs of Narashimalu Naicker Ethiraj and Ramamurthy sold the said property to Yashodammal and Premila in the year 2004. The said Yashodammal and Premila earlier filed a suit for permanent injunction in O.S.No.2152 of 2004 before the VIII Assistant City Civil Court, Chennai. The petitioner entered his appearance in the said suit, filed written statement along with 47 undisputed and unimpeachable documents to prove his peaceful possession since 1978. After filing of written statement, the plaintiff Yashodammal and Premila withdrew the suit on 28.09.2006. The 2nd respondent Beemaraj was aware of the background and litigations in the property, purchased the property from

Yashodammal and Premila to perfect the title and to get possession thereby a civil dispute has been given a criminal cloak by the above case.

4.The learned senior counsel further submitted that the offence under Section 465, 467 and 468 r/w 471 of IPC are relating to the offences with documents and property marks, falls under chapter XVIII of IPC. For offence under this chapter, the offence of forgery is a sin quo non, without establishing the ingredient of forgery, the alleged offences has no legs to stand against the petitioner.

5.The basic ingredient to substantiate forgery, there should be a false document being created. On a bare reading of the above Section and as per dictum laid down by the Hon'ble Apex Court in the case of ***Ramesh Dutt and State of Punjab reported in 2009 (9) SCALE 723***, it is stated that the offence of forgery can be committed only by making false documents, which is not found in the above case.

6.The learned senior counsel further submitted that in the case on hand the petitioner admits that he had submitted the indemnity bond with TNEB for getting electricity connection, which will not fall under any category as stated in Section 464 of IPC. The petitioner's act would not constitute offence of making false documents. The case of the prosecution is that the petitioner as authorized person executed the indemnity bond for getting electricity service connection. The indemnity bond discloses the fact that the house is situated in a Poromboke land. Providing wrong or false information will not and would not make the document as false document as per Section 464 Of IPC. Once, the main and basic ingredient of false document is not established by the prosecution, the offence of using forged documents defined under Sections 465, 467, 468 r/w 471 IPC is not made out.

7.Further for offence of cheating, the underlining concept is deception. In this case there is no iota of particulars that the petitioner had made any representation to the complainant and induced him to deliver any property. Further he relied on the decision in the case of ***Md. Ibrahim and State of Bihar and another*** reported in ***2009 (8) SCC 751.*** The case of the prosecution is that the petitioner got electricity connection in the year 1992. The vendors of the defacto complainant purchased the property in the year 2001. Thereafter the defacto complainant purchased the property in the year 2007. The first and foremost ingredient of false representation for offence of cheating at the inception is not there. Admittedly, the petitioner neither met the defacto complainant nor induced him fraudulently or dishonestly to deliver any property, which are the main ingredients for deception. Hence, in the absence of these ingredients, the offence of cheating would not arise. As regards offence under Section 447 of IPC, the criminal trespass, the petitioner had entered into the land in the year 1992, the defacto complainant purchased the property in the year 2007. Moreover the defacto complainant's vendors purchased the said property in the year 2001. Hence, the offence of trespass is not made out. The trial Court has not applied its mind before issuing summons to the accused. The Hon'ble Apex Court stressed the care and caution to be taken by the Magistrate before issuing summons to the accused and it is an obligation that the Magistrate has to scrutinize the complaint and statements in support of the complaint carefully. The proposition of law has been laid down in the case of ***Pepsi foods case*** reported in ***1998 SCC (Cri) 1400.***

8.The learned senior counsel further submitted that LW4 Ethiraj, son of Narashimalu Naicker in his statement has admitted that the petitioner was residing in adjoining plot and he was taking care of the property and thereafter, the petitioner had put up a roof and obtained electricity connection.

The petitioner was in possession of the property.

9.The learned senior counsel filed a consolidated typed set on 13.02.2020 and for the sake of clarity and brevity the documents in the type set are referred here under.

10.He further submitted that from the sale deed executed by Yasodammal (at page No.46 of the typed set) the entire sale consideration was received by cash for vacant land, the sale deed executed by Premila at page 69 and 70 the same is mentioned. LW6 Tahsildar, Mambalam, Guindy in her statement has stated that the file for issuance of patta in the name of the petitioner was not available. After finding the file only she can state about the genuineness of the patta issued to the petitioner. LW1 admitted in his statement that when he inspected the property he found a house in the said property and it was occupied by the petitioner. LW2, the subsequent purchaser admitted the same. From the statement of LW1 and LW2 it is clear that the recitals in the sale deed executed by LW3 Yashodammal and Premila are not true. The vendors to the property knowing that the property is in continuous possession of the petitioner had executed a sale deed as though the sale consideration to the tune of Rs.63,74,259/- was paid and received as cash, for past of vacant land.

11.He further submitted that the defacto complainant filed a civil suit in C.S.No.586 of 2013 (In page No.214) which is pending before this Court. The petitioner filed his written statement (In page No.234) along with 62 documents of unimpeachable character which would prove the fact that the petitioner was in continuous possession of the property. By giving criminal cloak to a civil dispute, the above case has been foisted against him. Earlier, the vendor LW2 viz., Yashodammal and Premila filed O.S.No.2152 of 2004 (In page No.190) against the petitioner and others seeking permanent injunction, restraining the petitioner from interfering with the peaceful possession and enjoyment of the said property and from creating obstruction by petitioner/defendant against plaintiff/Yashodammal and Premila in putting up a compound wall, the petitioner had filed written statement (In page No.198) in the said suit. The petitioner categorically asserted his undisturbed, open, continuous, possession and enjoyment of the property since 1978 which is vouched by several documents and about the fact that the revenue authorities cancelling the joint patta in the name of Yashodammal and Premila. Suppressing all these facts in the year 2007, the said Yashodammal and

Premila have executed a sale deed to LW2 and handed over the possession of the land.

12.The learned counsel further submitted that the said Narashimalu Naicker on 25.04.1994 had executed a sale deed to one Gunasekaran vide document No.829 of 1994, in which the petitioner's possession of the disputed property is mentioned. In the extract of Town Survey Register (at page No.172) the petitioner's name finds place. LW4 Ethiraj executed a sale agreement to the petitioner (which is found in page No.184). The indemnity bond is found at page No.80. The other documents relied upon by the petitioner are the bank pass book, ESI Corporation ID card, letter submitted to Corporation of Chennai, Motor Vehicle Policy, Advice Slip of TNEB, Electricity Bill, Property Tax Receipt, notice from corporation of Chennai and letters from Income Tax and other authorities.

13.Thus the petitioner had proved that from the year 1978 he is in continuous possession and enjoyment of the property. The said Ethiraj one of the owner of the suit property had received the sale consideration as mentioned in the sale agreement dated 07.08.1978 (at page No.184). Despite receiving the sale consideration the said Ethiraj failed to execute the sale deed in favour of the petitioner's wife, on the other hand suppressing the same had sold the property to Yashodammal and Premila, who thereafter had sold the property to LW2 and had given a criminal cloak for civil dispute.

14.It is submitted that earlier there were two police complaints which were enquired and closed as civil in nature and directed parties to approach the civil Court. Further, now a civil suit is pending for the same property. In view of the same, the continuation of the proceedings against the petitioner would amount to abuse of process of law. Hence, he prayed for quashing the proceedings.

15.In order to substantiate the arguments, the learned counsel for the petitioner relied upon the following citations:-

1.***Ramesh Dutt and others Versus State of Punjab and others reported in 2009 15 SCC 429***, in which it is held "*it is one thing to say that the appellants had committed acts of criminal misconduct while trying to obtain orders of mutation but it is another thing to say that only because they filed* *such an application, the same by itself would tantamount to commission of a criminal offence."*

2.***Devendra and others Versus State of Uttar Pradesh and Another reported in 2009 7 SCC 495***, in which it is held that "*making of any false document is the sin quo non there for and what is necessary is to execute a document with the intention of causing it to be believed that such document inter alia was made by the authority of a person by whom or by whose authority he knows that it was not made."*

3.***Mohammed Ibrahim and another Versus State of Bihar and another reported in 2009 8 SCC 751***, in which it is held that "*Criminal courts should ensure that proceedings before it are not used for settling scores or to pressurise parties to settle civil disputes. Mere execution of sale deed by claiming that property being sold was executant's property, did not amount o commission of offence under Section 467 and 471 even if title to property did not vest in the executant – This was for the reason that no false document as defined in Section 464 was created."*

4.***Sheila Sebastian Versus R.Jawahar Raj and anr. reported in (2018)3 Supreme Court Cases (Cri) 275*** in which it is held that "*a charge of forgery cannot be imposed on a person who is not the maker of the sameand making of a document is different than causing it to be madefor constituting an offence under Section 464 it is imperative that a false document is made and the accused person is the maker of the same.*"

5.***Rajiv Thapar and Ors. Versus Madan Lal Kapoor reported in MANU/SC/0053/2013***, in which the principles under Section 482 of Cr.P.C seeking quashing of the complaint is reiterated.

6.***Moti LalSongara Versus Prem Prakash and Ors. Reported in 2013(3)MLJ(Crl)50***, in which it is held that "*when the infrastructure collapses, the superstructure is bound to collapse.*"

7.***Rukmini Narvekar Versus VijayaSatardekar and Ors. Reported in AIR 2009 SC 1013***, in which it is held that "*under Section 482 Cr.P.C. the Court is free to consider material that may be produced on behalf of the accused to arrive at a decision whether the charge as framed could be* *maintained.*

8.***TGL Groundut Corporation, Groundnut Merchants Versus the Agricultural Market Committee*** reported in 1984 SCC Online AP 183, in which it is held that "*in order to extend the liability for an offence committed under the act to any any individual, it has to be averred in the petition of complaint that particular person is personally guilty of any act of commission or omission which tantamounts to an offence punishable under the Act.*"

16.The learned Additional Public Prosecutor appearing for the 1st respondent submitted that the property belongs to LW4 Ethiraj and his brother Ramamurthy, who are the legal heirs of Narashimalu Naicker. LW4 executed sale deed in favour of Yashodammal LW3 and Premila in the year 2001. LW3 Yashodammal and Premila executed power of attorney dated 16.04.2007 in favour of LW1 Benny Mathew, who in turn executed sale deed in favour of LW2 on 23.08.2007. All these documents are registered documents. The authorities on verification of the genuineness and transactions had registered the documents. The patta in the name of Yashodammal and Premila proved to be genuine as spoken by LW5 and LW6. Further LW5 and LW6 have stated that the patta and the documents through which the petitioner claims right was not issued by the concerned authorities and were forged documents. LW7 is the Accounts Officer of TNEB, who states about execution of deed of indemnity dated 25.04.1992, in which the petitioner had knowingly given false particulars as though the land is a government poramboke land. The petitioner in one breadth states that he paid substantial amount of sale consideration to Ethiraj and was put in possession, on the other hand claims right being in continuous possession of Government poramboke land. Thereafter by creating forged document and by deception, obtained the electricity connection. LW8 is the Sub Registrar of Velacherry, who had spoken about the execution of documents by Ethiraj LW4 to LW3 Yashodammal. Thereafter, LW3 Yashodammal executed the power of attorney to LW1 and LW1 executing the sale deed in favour of LW2. All these documents are genuine. The petitioner by creating forged documents, claimed that he is the owner of the property. The initiation of the civil suit will not absolve the petitioner from criminal liability. The petitioner in a well concerted manner had created forged documents, made false claim as though he owned the land in his own right, created revenue records to substantiate the claim. The documents pertaining to insurance, telephones, ration shop and of other authorities were created on the false representation of the petitioner. Further, the petitioner's claim that he had been put in possession by LW4 on 07.08.1978 is not admitted by LW4 and the said claim is highly doubtful. Hence, the contention of the petitioner has to be decided during the trial.

17.Further, the petitioner's claim of impeachable character of 62 documents is not true and they are disputed documents. The petitioner has to produce and prove the documents in the manner known to law during trial. The prosecution on statement of witnesses and the collection of documents during investigation from the Registration Department, Revenue Department, Land and Survey Department and Electricity Department clearly proved the complicity and involvement of the petitioner in creating forged documents and using the same, madeclaim over the property and usurping and squatting over the property without any right on the basis of forged documents. The statutory and Government records have been forged and prayed for dismissal of the petition.

18.The learned counsel for the 2nd respondent submitted that the plot No.4 in survey No.241/1C at Taramani Road, TANSI Nagar, Velacherry orginally belong to one Krishnaswamy Naicker. The said Krishnaswamy Naicker bequeathed the said property to his son K.Narasimalu Naicker on 25.03.1929. The registered will is document No.14 of 1929. Both Krishnaswamy Naicker and Narashimalu Naicker were in the absolute possession and enjoyment of the property. The said Narashima Naicker died on 21.07.1996. After the death of Narashimalu Naicker, his two sons Ethiraj and Ramamurthy executed sale deed in favour of Yashodammal and Premila by document No.2181 and 2182 of 2001 dated 01.06.2001. Thereafter, the said Yashodammal and Premila had executed a power of attorney to LW1 in document No.1069 and 1070 of 2007. LW1 executed sale deed in favour of LW2 Beemaraj vide document No.3648 and 3649 of 2009 dated 23.08.2007. The patta and revenue records stands in the name of Yashodammal and Premila. The petitioner a political bigwig in the area, who has muscle power, connected to person in power, being active in the leading political party in power, got himself nominated to various committees and in all these committee communication, the address was given as plot No.4, Taramani, TANSI Nagar, Velacherry to create records. Further for insurance, Telephone Department and other authorities, the petitioner in a deceitful manner knowingly has given this address to create documents. The petitioner's contention that Ethiraj received the money for sale consideration and put him in possession with the property is false. This claim is now made in the civil suit as a defence. Further, the sale agreement entered with Ethiraj on 07.08.1978 is disputed. That is the reason the petitioner has not filed any specific performance suit. The petitioner proximate to the plot, using his clout and connection created false documents. The document submitted to the TNEB on the face of it is with false particulars. Further taking advantage of the absence of the land owners, the petitioner using his clout and muscle power, created documents and claims right over the property. Earlier the complaint to the local police and to the Commissioner of Police was not acted upon and no action was taken. Thereafter, the 2nd respondent approached the concerned Magistrate under Section 156(3) Cr.P.C and thereafter, a case in Crime No.115 of 2009 came to be registered. On completion of the investigation, charge sheet came to be filed and the same taken on file as C.C.No.6526 of 2010. For the past ten years the petitioner successfully stalled the progress of the trial and the petitioner's contention that due to the pendency of the civil case, the criminal case cannot be proceeded cannot be countenanced on the facts of the case. The documents produced by the petitioner are not of impeccable character which are disputed documents to be proved in the manner known to law during the trial. The petitioner's admission that at his instance and on his representation the patta issued to vendor of the defacto complainant was cancelled would prove that the petitioner with criminal intend created forged documents made false representation to the authorities concerned. The petitioner knowingly created false documents and used the same as genuine. The petitioner's claim that he had not created any documents with false particulars cannot be sustained on the facts of the above case.

19.The learned counsel for the 2nd respondent further submitted that the trial is pending for the past ten years without any progress and prayed this Court to direct the trial Court to dispose of the trial within a time frame.

20.To substantiate the arguments, the learned counsel for the 2nd respondent relied upon the following citations:-

1.***Indian Oil Corporation Limited Versus NEPC India Limited***

reported in 2006 (6) SCC 736, wherein it is held that pendency of civil proceedings cannot be a ground to quash criminal proceedings.

2.***Syed AskariHadi Ali Augustine Imam Versus State (Delhi Administration) and another reported in (2009) 5 Supreme Court Cases 528,*** wherein it is held as follows:-

> *"Indisputably, in a given case, a civil proceeding as also a criminal proceeding may proceed simultaneously. Cognizance in a criminal proceeding can be taken by the criminal court upon arriving at the satisfaction that there exists a prima facie case. The question as to whether in the facts and circumstances of the case one or the other proceedings would be stayed would depend upon several factors including the nature and the stage of the case.*
>
> *It is, however, now well settled that ordinarily a criminal proceeding will have primacy over the civil proceeding. Precedence to a criminal proceeding is given having regard to the fact that disposal of a civil proceeding ordinarily takes a long time and in the interest of justice the former should be disposed of as expeditiously as possible."*

3.***Amit Kapoor Versus Ramesh Chander and anr. reported in 2012 (9)***

SCC 460, wherein it is held as follows:-

19. ....

11) Where allegations give rise to a civil claim and also amount to an offence, merely because a civil claim is maintainable, does not mean that a criminal complaint cannot be maintained.

12) In exercise of its jurisdiction under Section 228 and/or under Section 482, the Court cannot take into consideration external materials given by an accused for reaching the conclusion that no offence was disclosed or that there was possibility of his acquittal. The Court has to consider the record and documents annexed with by the prosecution.

13) Quashing of a charge is an exception to the rule of continuous prosecution. Where the offence is even broadly satisfied, the Court should be more inclined to permit continuation of prosecution rather than its quashing at that initial stage. The Court is not expected to marshal the records with a view to decide admissibility and reliability of the documents or records but is an opinion formed prima facie.

14) Where the charge-sheet, report under Section 173(2) of the Code, suffers from fundamental legal defects, the Court may be well within its jurisdiction to frame a *charge.*

21.This Court considered the rival submissions and perused the materials available on record.

22.The petitioner has filed a consolidated typed set, annexing several documents. On perusal of the same and on the submissions of the learned senior counsel for the petitioner, it is seen that the petitioner claimed title over the property viz., plot No.4, 100 feet Taramani Road, TANSI Nagar, Velacherry, on the strength of sale agreement dated 07.08.1978 entered with Ethiraj son of Narashimalu Naicker and on the strength of his undisturbed, continuous enjoyment of the property from the year 1978. The petitioner admits about executing indemnity bond to TNEB on 25.04.1992 (at page No.80), obtaining electricity connection No.210:21:405 on 12.10.1992 (at Page No.123), Chennai Corporation Tax Notice dated 17.11.1994 at page No.127, Tax receipt dated 01.12.1994 (at page No.128), unauthorized Construction Notice of Corporation dated 01.11.1996 (in page No.131), unauthorized Construction Notice dated 04.11.1996 (at page No.133), demolition notice dated 07.11.1996 (in page No.134), property tax receipt dated 20.02.1997 (in page No.135), TNEB meter changing slip dated

04.10.1997 (in page No.138), letter of the petitioner to Assistant Commissioner Civil Supplies dated 20.03.2018, Ration Card application form dated 10.02.1997 (in page Nos.143 and 144).

23.From all these documents it is seen that the petitioner has been making claim that he is a resident of plot No.4, 100 feet Taramani road, TANSI Nagar, Velacherry. The sale agreement dated 07.08.1978 through which the petitioner claims his possession of the property. The sale agreement is **for plot No.2 and not for plot No.4**. Further, area of plot No.2 is 110 feet in length and 25 feet in breadth, totalling 2750 square feet and the boundaries of the property are mentioned. The indemnity bond submitted to TNEB is dated 25.04.1992, in which it is mentioned that "*whereas the consumer (petitioner) has taken on lease of is otherwise lawfully occupying the premises without a lease in Door No.6 situated in Poromboke land in S.R.No. Owned by the Revenue Department for the purpose of getting electricity connection has applied of a service connection in the above premises in his/her name for his purpose of getting electricity supply*".

24.The indemnity bond has been signed/executed/delivered/handed over by the petitioner. It is found that though the indemnity bond is dated 25.04.1992, the stamp paper serial No.208 is dated 27.04.1992. Further though the indemnity bond was for plot No.6, in the EB receipts and bills it is mentioned as Krishnan 4, 100 Taramani Road, Tansi Nagar. In the letter of the petitioner dated 25.08.1986 addressed to the Assistant Revenue Officer-XV, Corporation of Madras, Ripon Building, Madras, it is mentioned that he is the owner of the premises viz., No.7, 100 feet road, TANSI Nagar, Velacherry and he had purchased the land on 07.08.1978 and immediately put up construction. The said agreement of sale dated 07.08.1978 is for plot No.2, as could be seen from page 184. In the Electricity Consumer Card as well as in the Corporation ID Card, it is plainly mentioned as No.4 Taramani Road, Velacherry and whether it is plot number or door number is not properly mentioned. It is to be seen in page No.131, Unauthorized Construction Notice of Corporation of Madras dated 01.11.1996, the JE of the concerned Corporation Division had made a note that "*During inspection it is noticed that you have commenced construction and it is an unauthorized one. You are hereby directed to stop the construction or otherwise your watchmen and materials will be removed from the site as per Section 256A of Madras City Municipal Corporation Act IV, 1919 and further, legal action will be taken* *against you".*

25.In the communication from the Oriented Insurance Company Limited addressed to the petitioner it is mentioned that plot No.7, door No.4, 100 feet road, TANSI Nagar, Chennai-42 as could be seen from page No.139. In the ration card which is at page No.164 it is mentioned as door No.4, 100 feet road, Velacherry. In Election commission ID Card it is mentioned door No.4, TANSI Nagar, 100 feet road, Velacherry. To the bank viz., United Commercial Bank, Nayanapuram Branch and Madras Central Co-operative Bank, Velacherry Branch and in E.S.I Corporation Identity Card, the petitioner has given his address as plot No.7, 100 feet road, TANSI Nagar, Velacherry. In such circumstances, it is seen that the petitioner was interchanging and using the door No.4 and plot No.7 to his convenience.

26.Further, the petitioner had entered into an agreement with Ethiraj on 07.08.1978 is for plot No.2 and not for plot No.7, as could be seen from (page No.184). On 25.08.1986 the petitioner submitted a letter to the Assistant Revenue Officer-XV, Corporation of Madras, Ripon Buildings, Madras as seen from (page No.118) referring the purchase of land on 07.08.1978 for plot

No.7. Strangely in that letter, initially plot No.4 had been typed and later it had been corrected as plot No.7. The area of plot No.4 as well the boundaries are not the same with variations as could be seen from (page No.54, page No.77 with page No.185). The petitioner had addressed a letter on 20.06.2018 to Assistant Commissioner Civil Supplies, in which he mentioned that he is residing at door No.4, plot No.7, as could be seen from the (page Nos.142 and 144).

27.Thus the petitioner who has got no right whatsoever in plot No.4, unauthorizedly put up some construction, taking advantage of confusion in door No.4 and plot No.4 had obtained and created certain documents. Taking advantage of the same, his claim that in property at plot No.4, he was put in possession by Ethiraj on 07.08.1978 stands exposed. Further in the indemnity bond the petitioner seeks EB connection for door No.6. Not stopping with it, he makes a claim that patta No.9909 which was issued in the name of Yashodammal and Premila was cancelled for which petitioner produced a letter of Tahsildar, Mambalam, Guindy dated 14.09.2004, which is at (page No.155). This letter, as per revenue authorities and records was not issued by them and it is a forged one.

28.Thus the petitioner in one breadth claims to be in possession on the strength of sale agreement dated 07.08.1978 with Ethiraj son of Narashimalu Naicker and on the other hand claims right being in continuous possession of Government poramboke land. Thus looking at any angle the petitioner's contention are not tenable and acceptable both legally and factually. The citations relied upon by the learned senior counsel for the petitioner are not applicable to the facts and circumstances of the above case.

30.In view of the above, this Criminal Original Petition stands dismissed. Having regard to the fact that the charge sheet was filed ten years ago, this court directs the trial Court to complete the trial within a period of six months.

31.It is made clear that the observations and findings recorded in this order are only for the purpose of disposal of this quash petition arising out of application filed under Section 482 of Cr.P.C. It is open for the trial Court to decide the case pending trial on its own merits, uninfluenced by this order. Consequently, the connected miscellaneous petition is closed.

03.06.2020

Speaking order/Non-speaking order
Index: Yes/No
Internet: Yes/No

vv2

To

1.The XI Metropolitan Magistrate Court at Saidapet,
Chennai.

2.The Sub-Inspector of Police,
Central Crime Branch,
Team-XV-A, Egmore,
Chennai-600 008.

3.The Public Prosecutor,
High Court, Madras.

M.NIRMAL KUMAR, J.

vv2

PRE-DELIVERY ORDER IN

Crl.O.P.No.14190 of 2010 and
Crl.M.P.No.1 of 2010

03.06.2020