

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :16.07.2020

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THE HONOURABLE MR. JUSTICE M.NIRMAL KUMAR

Cr1.O.P.No.30624 of 2015

and M.P.No.1 of 2015

M.Vivekanandan

...Petitioner

Vs.

1.State By.

The Inspector of Police,
Central Crime Branch Team-V,
Vepery, Chennai - 7.

2.Mrs.Chitra Mani

...Respondents

Prayer: Criminal Original Petition is filed under Section 482 of Criminal Procedure Code, to call for the records of the proceedings pursuant to the complaint in C.C.B. Crime No.215 of 2015 on the file of the Inspector of Police, Central Crime Branch, Team-V, Vepery, Chennai -7 and quash the same.

For Petitioner : Mr.R.Amizhdhu

For Respondents : Mr.C.Iyyapparaj

Additional Public Prosecutor for R1

Mr.M.Velmurugan for R2

O R D E R

सत्यमेव जयते

The petitioner, who was arrayed as A3 in Crime No.215 of 2015 has filed this quash petition on the ground that the petitioner himself is a victim of circumstances.

2. The learned counsel for the petitioner submits that the petitioner purchased the property from A1 and A2 viz., Ramu and Vimalan, thereafter, a Sale Deed was executed in favour of the petitioner. After submission of all necessary documents and legal opinion, the petitioner obtained loan from the Housing Development Finance Corporation Limited (H.D.F.C) and thereafter, purchased the property from A1 and A2. The legal panel of HDFC Bank had given approval for loan, which was an

important factor for the petitioner to enter into the sale deed and purchased the property from A1 and A2. Thereafter, the 2nd respondent filed a complaint in Crime No.215 of 2015 against the petitioner, wherein it is stated that the property belongs to the 2nd respondent and not to A1 and A2. Thereafter, the petitioner filed a complaint against A1 and A2 and the same was registered by the 1st respondent in Crime No.505 of 2015. As per the directions of this Court, both the complaints in Crime Nos.215 and 505 of 2015 were clubbed together and investigation has been conducted, later it was found that the petitioner was a victim of circumstances. Thereafter, the petitioner was deleted from the link of the accused and named as a witness and charge sheet has been filed.

3.The learned Additional Public Prosecutor for the 1st respondent submits that the petitioner was initially arrayed as A3 in Crime No.215 of 2015. Thereafter, he had filed a complaint against A1 and A2, which reveals that by creating forged documents, A1 and A2 cheated the petitioner. The petitioner claims that he is a victim of circumstances and thereafter, the complaint in Crime No.505 of 2015 came to be filed. As per the directions of this Court, the 1st respondent investigated both the Crime Nos.215 and 505 of 2015. During the investigation, it was found that the contention of the petitioner is true, thereafter, the petitioner was arraigned as a witness and deleted from the link of the accused and a victim of circumstances in both the complaints. He further submitted that investigation in this case was completed and draft charge sheet has been made ready. Due to Covid-19 pandemic situation, there was some delay in getting approval.

4. Mr.M.Velmurugan, learned counsel for the 2nd respondent submits that the 2nd respondent was residing at U.S.A and taken note of her absence, A1 and A2 created forged and fabricated documents and sold the property to A3, the petitioner herein. Thereafter, the complaint came to be lodged and investigation was completed. He further submitted that the petitioner escaped from the clutches of the complaint, as though he has been cheated by A1 and A2. The defacto complainant, as plaintiff filed a civil suit which is pending before the civil Court, where the petitioner is one of the defendant. He further submitted that the petitioner though makes his submission that he has been cheated by A1 and A2 in this case, however, the same is not submitted before the Civil Court. Further, the property purchased by the petitioner is through a registered document, which reflects in the encumbrance certificate, which causes concern to the 2nd respondent.

5.At this stage, the learned counsel for the petitioner submits that the petitioner has been cheated by A1 and A2 and hence, the petitioner was arrayed as a victim of circumstances. The complaint in Crime No.505 of 2015 clearly shows that the petitioner has been cheated by A1 and A2 and the same is taken before the Civil Court. The petitioner is now in piquant situation, wherein he has lost money to A1 and A2, on the other hand the H.D.F.C Bank is pressurizing the petitioner to pay the loan dues. The petitioner has not only been cheated, he has got liability of settlement.

6.Considering the rival submissions and on perusal of the materials, it is seen that the petitioner name now deleted from the link of A3 in Crime No.215 of 2015 and made as a witness in the said case and in other case in Crime No.505 of 2015, where the petitioner is the complainant was clubbed together and draft charge sheet has been made ready, in which the said A1 and A2 viz., Ramu and Vimalan and along with others have been arrayed as accused. The petitioner is shown as witness, which is not disputed. The petitioner now made as witness is recorded.

7.In view of the above submissions, nothing survives for adjudication in this petition and the same is closed. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

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To

1.The Inspector of Police,
Central Crime Branch Team-V,
Vepery, Chennai - 7.

2.The Public Prosecutor,
High Court, Madras.

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and M.P.No.1 of 2015

RSV (CO)

KKV/04/09/2020