

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.08.2020

CORAM:

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

CRL.O.P.No.5836 of 2020
and Crl.M.P.No.3317 of 2020

A.Anthony Doss,
S/o. Natarajan,
No.26/16A, Haridoss Main Rd,
Kolattur,
Chennai - 600 099.

... Petitioner/Accused-1

.Vs.

1. The State Rep. by
The Inspector of Police,
Team 24, LG II,
Central Crime Branch II,
Chennai.
(Crime No.175 of 2019)

2. S.Thilaka,
W/o. Late Sivan,
No.1304, A.W.H.O.Army Colony,
Dara Enclave, Plot No.6,
Sector - 09, Nerul East,
Navi Mumbai, Maharastra - 400 706.

... Respondents

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C. praying to call for the records in Cr.No.175 of 2019, on the file of the first respondent police and to quash the same against the petitioner herein.

For Petitioner : Mr.A.Edwin Prabakar

For Respondents

For R1 : Mr.S.Karthikeyan
Additional Public Prosecutor.

For R2 : Ms.Vijayalakshmi

ORDER

This petitioner has been filed to quash the FIR in Crime No.175 of 2019 on the file of the first respondent registered for the offences punishable under Sections 419, 465, 467, 468, 471, 420 and 34 of IPC as against the petitioner.

2. There are totally four accused, in which the petitioner is arrayed as first accused. The complaint is that the second respondent is the owner of the property comprised in Survey No.421/1, ad-measuring 2400 sq.ft., situated at Plot No.75, Marriammal Nagar, Puzhal Village, Ambattur, Chennai, by a registered sale deed dated 22.11.1990, vide document No.8720/1990. After purchase of the said property, the defacto complainant went to Mumbai and she is living with her son. After the period of ten years, when she visited to her property, she came to understand that the said property was sold to one Anthonidass. When verifying the encumbrance certificate, she found that the said property was purchased by the petitioner herein by the registered sale deed vide document No.7154 of 1999 with the Sub Registrar Office. The second accused impersonated the defacto complainant and executed sale deed in favour of the first accused, in which third and fourth accused were signed as witnesses. Therefore all the accused persons have committed the crime for the offences punishable under Sections 419, 465, 467, 468, 471, 420 and 34 of IPC.

3. The learned counsel appearing for the petitioner would submit that after registration of FIR, the petitioner was arrested and remanded to judicial custody. When he moved bail petition in CrI.O.P.No.1388 of 2020, the petitioner contended that he is a bonafide purchaser of the disputed property from the second accused and he did not know about the identity of the second accused. The second accused herself acted as owner of the property and executed the sale deed in his favour. However to show his bonafide, he is ready and willing to cancel the sale deed executed in his favour. Accordingly the petitioner herein executed the cancellation of sale deed in favour of the second respondent herein vide document No.1599 of 2020 on the file of the Sub Registrar Office, Redhills, on 24.02.2020. On the strength of the cancellation of sale deed, this Court granted bail to the petitioner.

3.1. He further submitted that as far as the petitioner is concerned, he is no way connected with any of the offences as alleged by the second respondent, since he is a bonafide purchaser and no way connected with any of the accused persons. The petitioner was working as Foreman in Indian Oil Corporation and out of his retirement benefits, he decided to purchase a property in Chennai. The third accused worked as driver in Indian Oil Corporation and he referred the disputed property. The petitioner believed their words and purchased the disputed property for valuable sale consideration. He did not know about the identity of the second accused, whether she is the original owner or not, and purchased the property from her. When he came to understand that the second respondent is the original owner

of the property, immediately the petitioner cancelled the sale deed executed in his favour by the cancellation deed dated 24.02.2020 vide document No.1599 of 2020. Therefore he sought for quashment of the FIR as against the petitioner.

4. The learned counsel appearing for the second respondent also admitted the fact that the sale deed stands in the name of the petitioner has been cancelled by the cancellation deed dated 24.02.2020 and the second respondent is in possession and enjoyment of the said property.

5. Heard Mr.A.Edwin Prabakar, learned counsel appearing for the petitioner, Ms.Vijayalakshmi, learned counsel appearing for the second respondent and Mr.S.Karthikeyan, learned Additional Public Prosecutor appearing for the first respondent police.

6. It is seen from the FIR, there is absolutely no material to show that the petitioner along with other accused persons with an intention to cheat the defacto complainant executed the sale deed. The petitioner is a bonafide purchaser of the property and he did know about identity of the original owner of the property. On the words uttered by the other accused persons, he believed the same and purchased the property. More over the petitioner also executed cancellation of sale deed dated 24.02.2020, and the second respondent is in possession and enjoyment of the property. Therefore, no offence is committed by the petitioner, as such the impugned FIR cannot be sustained as against him. In view of the above facts and circumstances, this Court is inclined to quash the FIR in Crime No.175 of 2019, as against the petitioner alone.

7. Accordingly, this Criminal Original Petition stands allowed and the FIR in Crime No.175 of 2019 of the file of the first respondent is hereby quashed as against the petitioner alone. The first respondent is directed to complete the investigation in Crime No.175 of 2019 insofar as the other accused persons are concerned and file final report within a period of 12 weeks from the date of receipt of copy of this Order. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

1. The Inspector of Police,
Team 24, LG II,
Central Crime Branch II,
Chennai.
2. The Public Prosecutor
Madras High Court,
Chennai.

CRL.O.P.No.5836 of 2020
and CrI.M.P.No.3317 of 2020

nmi (co)
rr ii (19/10/2020)