

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 16.02.2021
CORAM
THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH
Crl. OP No.490 of 2021
and Crl. MP Nos.243 and 244 of 2021

M.Natrajan

...Petitioner / Accused No.7

vs.

The State rep. By
The Inspector of Police,
District Crime Branch,
Kancheepuram District.
Cr. No.83/2013

...Respondent / Complainant

PRAYER: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to call for the records relating to the Calendar Case in CC.No.251 of 2020 on the file of the Learned Judicial Magistrate II, Chengalpattu, quash the same.

For Petitioner : Mr. G.Magesh Kumar
For Respondents: Mr.C.Raghavan
Govt. Advocate (Crl. Side)

O R D E R

This petition has been filed seeking to quash the proceedings in CC No. 251 of 2020 on the file of the learned Judicial Magistrate II, Chengalpattu.

2. A complaint was given before the respondent police on the ground that the subject property situated at Survey No.118/4C measuring an extent of 5 cents along with a larger extent of property was originally a joint family property. This property is said to have been divided among the family members by means of a koorchit partition on 22.07.1939. By virtue of this partition, it is claimed that the father of the Defacto complainant was allotted Survey No.118/4C measuring an extent of 5 cents. It is further stated that there was a joint patta standing in the name of the Defacto complainant and his brothers and sisters.

3. The further allegation made in the complaint is that A1 to A6, who do not have any right over this property executed a

Sale Deed in favour of the petitioner (A7) on 26.10.1998. The petitioner in turn had also executed a power of attorney in favour of A8 and thereafter the property was sold in favour of Mahindra World City. Based on this complaint, an FIR came to be registered in Crime No.83 of 2013.

4. On completion of the investigation, a final report came to be filed by the respondent police and the same was taken on file in C.C. No.251 of 2020 by the Court below. The petitioner was arrayed as A7 in the final report. Aggrieved by the same, the present petition has been filed before this Court.

5. Heard Mr.G.Magesh Kumar, learned counsel appearing for the petitioner and Mr.C.Raghavan, learned Government Advocate appearing for the respondent. It is brought to the notice of this Court that the Defacto Complainant died during the pendency of the proceedings.

6. The main contention that was raised by the learned counsel for the petitioner is that A1 to A6 had conveyed nearly 11 items of properties to the petitioner and out of the same, the property in Survey No.118/4C was also conveyed. It was further submitted that the petitioner did not have knowledge of the koorchit that is referred in the complaint and it was represented to him that the properties are the ancestral properties over which A1 to A6 had the title and ownership. The learned counsel appearing for the petitioner in order to substantiate his submissions also brought to the notice of this Court, the judgment of this Court in Muthammal & others v. S.Thangam, reported in CDJ 2018 MHC 7064.

7. The learned Government Advocate appearing on behalf of the respondent police submitted that the petitioner had purchased the property knowing fully well that A1 to A6 do not have any right over the property situated in Survey No.118/4C. Therefore, the petitioner has to necessarily face the trial and prove his innocence.

8. This Court has carefully considered the submissions made by the learned counsel on either side and the materials available on record.

9. It is seen from the Sale Deed executed in favour of the petitioner on 26.10.1998 by A1 to A6 that nearly 11 properties were conveyed in different Survey numbers. One such property was the subject property in Survey No.118/4C. There is no reference in the Sale Deed regarding any Koorchit and it was represented to the petitioner that these properties were inherited by A1 to A6. The petitioner believing the words of A1 to A6, proceeded to purchase the property in the year 1998.

10. The complaint came to be given in the year 2013. The only allegation made against the petitioner is that he has purchased the property in dispute from A1 to A6. Apart from that there is absolutely no allegation against the petitioner. There are no materials to show that the petitioner had entered into a criminal conspiracy with A1 to A6, before the property was purchased. The same is evident from the fact that the petitioner had purchased nearly 11 properties from A1 to A6 and one of those property pertaining to Survey No.118/4C. In the considered view of this Court, the offence of forgery has not been made out in this case against the petitioner who was a bonafide purchaser of the property and the continuation of the criminal proceedings against the petitioner is an abuse of process of Court which requires the interference of this Court in exercise of its jurisdiction under Section 482 of the Code of Criminal Procedure.

11. In the result, the proceedings in CC No. 251 of 2020 on the file Judicial Magistrate II, Chengalpattu is quashed, insofar as the petitioner is concerned. This Criminal Original Petition is allowed. Consequently, the connected miscellaneous petitions are closed.

-s/d-

Assistant Registrar

True Copy

Sub-Assistant Registrar

jv

To

1.The Judicial Magistrate No.II,
Chengalpattu

2. The Inspector of Police,
District Crime Branch,
Kancheepuram District.

3. The Public Prosecutor,
High Court of Madras,
Chennai 600 104.

+1 cc to M/s.G.Magesh Kumar Advocate sr08879

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