

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.02.2021

CORAM :

THE HONOURABLE MR. JUSTICE N.ANAND VENKATESH

Crl.O.P.No.2770 of 2019
and
Crl.M.P.No.1798 of 2019

V.Rajaram .. Petitioner/Accused -1

Vs.

1. The State

Represented by its Inspector of Police,
F-2, Egmore Police Station(Crime)
Chennai District.

(Crime No.102 of 2018)

..1st Respondent/1st Respondent

2.R.Chandrasekaran

..2nd Respondents/Defacto
Complainant

Prayer: Criminal Original Petition filed under Section 482 of
Cr.P.C. to quash the proceedings in so far as the petitioner is
concerned in Crime No.102 of 2018 on the file of the first
respondent.

For Petitioner : Mr.A.M.Esakkiappan

For Respondent No.1 : Mr.M.Mohamed Riyaz
Additional Public Prosecutor

For Respondent No.2 : Mr.Vimal B.Chrimson

ORDER

This petition has been filed seeking to quash the FIR in
crime No.102 of 2018 pending investigation on the file of the 1st
respondent.

2. The 2nd respondent gave a complaint to the effect that he
entered into an agreement of sale with the petitioner on
21.03.2013. This document was also registered as document No.664
of 2013. The defacto complainant was the power of attorney agent
of one Mr.P.Venkatraman. The further allegation that has been

made in the complaint is that the total sale consideration was fixed at Rs.6 Crores and an advance of Rs.10 lakhs was paid by the petitioner by way of cheque. When this cheque was deposited in the bank, the same was dishonoured. When this was questioned by the 2nd respondent, an evasive reply was given by the petitioner and the 2nd respondent came to know that the petitioner and the other accused person were attempting to grab the property and they were also refusing to cancel the sale agreement. That apart, the 2nd respondent was also criminally intimidated by the accused persons. Based on this complaint, an FIR came to be registered by the respondent police in Crime No.102 of 2018 against the petitioner and another accused person for an offence under Section 406, 420 and 506(i) IPC.

3. Heard the learned counsel for the petitioner and Mr.M.Mohamed Riyaz, learned Additional Public Prosecutor appearing on behalf of the respondents.

4. In the considered view of this Court, even if the allegations made in the FIR is taken as it is, no offence has been made out against the petitioner. The fact remains that the petitioner was only an agreement holder under the registered agreement of sale dated 21.03.2013. If the advance amount paid by the petitioner is dishonoured and the petitioner fails to satisfy his part of the contract, there is absolutely no compulsion on the part of the owner of the property to execute a sale deed in favour of the petitioner. Till such a sale deed is executed, the petitioner cannot claim any right or title over the property. An agreement of sale only creates an enforceable right for a party. A mere agreement of sale does not create any charge or interest over the property. The law on this issue is well settled. It is also brought to the notice of this Court that this agreement of sale was never put to execution and the status quo continues.

5. In view of the above, the ownership of the property continues to vest only with the original owner and there is no way the petitioner can grab the property belonging to the owner with a mere agreement of sale. If at all there is any right, the same can only be agitated before the competent civil court and in a case of this nature, which is purely civil, the police will have no role to play. Continuation of the investigation in the pending FIR will only be an abuse of process of law. It is made clear that all the other issues are left open and this order is passed only for the limited purpose of ascertaining as to whether a criminal offense has been made out on the allegations made in the complaint and this Court finds that no criminal offence has been made out. This order will not stand in the way of the parties to agitate their rights before the competent civil court. The FIR in crime No.102 of 2018, pending

investigation on the file of the 1st respondent is hereby quashed and accordingly, this Criminal original petition is allowed. Consequently, the connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To

1. The State

Represented by its Inspector of Police,
F-2, Egmore Police Station(Crime)
Chennai District.
(Crime No.102 of 2018)

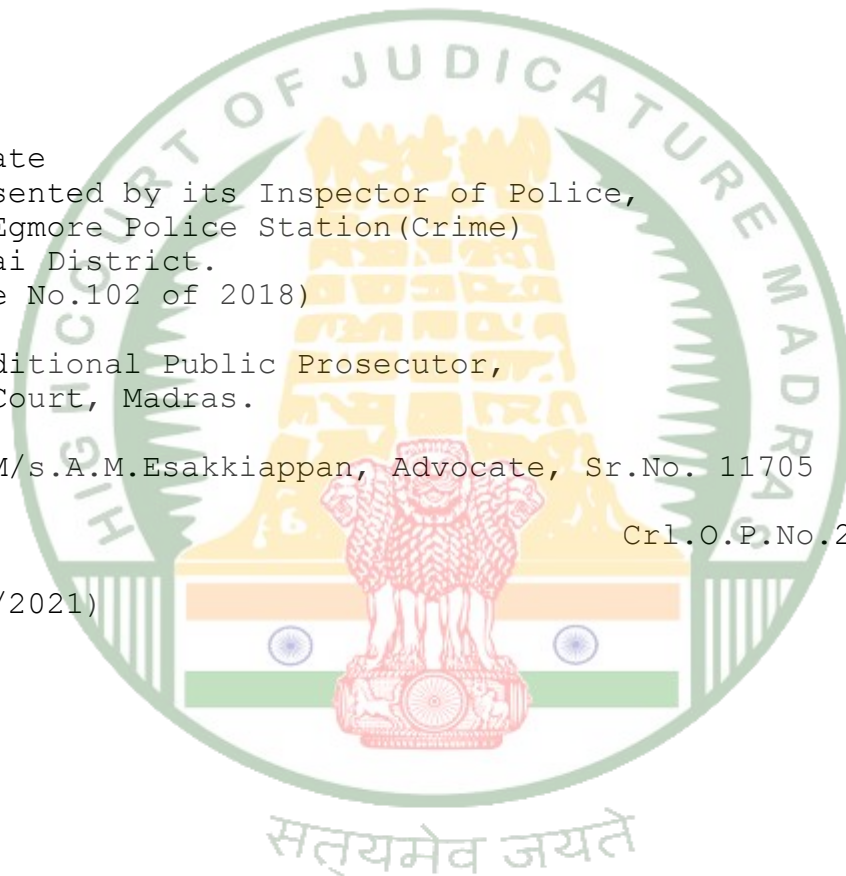
2. The Additional Public Prosecutor,
High Court, Madras.

+2ccs to M/s.A.M.Esakkiappan, Advocate, Sr.No. 11705

Crl.O.P.No.2770 of 2019

SKY (CO)

RMP (16/03/2021)



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