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IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 12.07.2021
PRONOUNCED ON : 22.07.2021

CORAM

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

Crl.O.P.No.10947 of 2021

Shahul Hameed

... Petitioner

Versus

1.The State,
Represented by Inspector of Police,
Perur Police Station,
Coimbatore.

2.Etwin Jayaraj

... Respondents

PRAYER: Criminal Original Petition is filed under Section 482 of the Code of Criminal Procedure, to call for the records pertaining to the proceedings in Cr.No.40 of 2021 dated 09.02.2021 on the file of Perur Police Station, Coimbatore and quash the same with respect to the present petitioner.

For Petitioner : Mr.A.Parthasarathy

For R1 : Mr.E.Raj Thilak,
Government Advocate (Crl. Side)

ORDER

The petitioner, who is the accused in Crime No.40 of 2021, for offence under Section 406, 417 and 420 of IPC, has filed the Quash Petition.

2.The gist of the case is that the 2nd respondent is a retired District/Divisional Forest Officer from Forest Department. On 13.05.2013, the 2nd respondent's daughter Smily Jayajothi had purchased a property in plot No.108A at 'C' Extension, PNT Colony, Sundakamuthur, Coimbatore at S.F.No.306 (DTCP No.1425/92). The documents were verified and HDFC Bank granted loan to the tune of Rs.9,75,000/- to the 2nd respondent's daughter for purchasing the property. Likewise, one Riyaz Ahamed purchased plot No.109A. Both plots are derived from survey Nos.306 and 307. Later, on enquiry, it came to know that the plots have been earmarked for community hall under Vinobaji Scheme, which is the area allotted for public purpose as per DTCP guidelines. Contrary to the same, the petitioner had forged the DTCP Approval No.1425/92 and laid the plots and sold the same to the 2nd respondent's



daughter and one Riyaz Ahamed. Thus, the petitioner cheated the 2nd respondent's daughter and one Riyaz Ahamed by creating forged approval. Hence, on the complaint of the 2nd respondent a case in Crime No.40 of 2020 was registered for offence under Sections 406, 417 and 420 IPC.

3.The learned counsel for the petitioner submitted that the 2nd respondent's daughter purchased site bearing No.1089 at 'C' Extension, PNT Colony, Sundakamathur, Coimbatore in S.R.No.306. On enquiry, the 2nd respondent found that the plan in DTCP.No.1425/92 was forged and the land earmarked for public purpose was changed as housing plot. The learned counsel further submitted that there is no material to prove that the petitioner sold the plots to the 2nd respondent's daughter and Riyaz Ahamed. The 2nd respondent's daughter purchased the plot vide sale deed No.2523 of 2013 on 13.05.2013 from one R.Reena. In fact, even in the description of property set out in the sale deed No.2523 of 2013 at Page No.3, description property stated as follows:-

“சென்னை நகர் ஊரமைப்பு, துறை இயக்குநர் அவர்களால் ம.வ/
ந.ஊ.இ எண்.1425/92ன் படி அங்கீகரிக்கப்பட்டுள்ளதில் சி
எக்ஸ் டென் உடினீ மேற்படி கிரையப் பத்திரபடி எனக்கு பாத்தியப்பட்டது”

4.In view of the above, nothing whispered about the said document and about the accused. The said Reena had purchased the plot No.108A in survey No.306 from one P.Kasthuri vide document No.1072 of 2008, dated 05.03.2008. The said Kasthuri purchased the plot No.108A in survey No.306 from one Narayanaswamy vide document No.778 of 1996. The said Narayanaswamy dealt with the property through his power of attorney one Manoharan. In the sale deed in document No.778/96, it is seen that Narayanaswamy sold the adjoining lands to the petitioner and formed layout and prepared a plan and the same was approved by the Director of Town Planning Authority, Chennai in DTCP.No.1425/92 and he sold the site No.108A to Kasthuri. Hence, the petitioner is no way connected with any of the transactions and he has neither dealt with the property nor signed any document. The said Riyaz Ahamed who said to have purchased plot No.109A gave a complaint to the Commissioner of Police, Coimbatore that he was defrauded by one Sivasamy. Thus, the petitioner was arrayed as accused on a wrong premise that he has committed the offence.

5.The learned counsel for the petitioner further submitted that there is delay of four years in lodging the complaint. The admitted case of the 2nd respondent is that his daughter had purchased the property in the year 2013 and the 2nd respondent discovered the forgery only in the year 2017 and lodged complaint in the year 2017 with the delay of four years. No reason for the delay has been given for the same.



6.The learned Government Advocate (Crl. Side) appearing on behalf of the 1st respondent Police filed the counter and submitted that in the year 2017, the 2nd respondent visited the property for carrying out fencing work and came to know that the property which was purchased by his daughter was a reserved site and the land earmarked for community hall under Vinobaji Scheme. The 2nd respondent searched the land document details in Chennai Corporation and obtained a draft DTCP.No.1425/92. On perusal of the same, the 2nd respondent came to know that first draft given by the petitioner is forged a document. The petitioner prepared a fake document and carved the land into 8 plots and sold the lands to the 2nd respondent and others. Thereafter, the 2nd respondent lodged a complaint against the petitioner for creating forged document and sold the property illegally.

7.The learned Government Advocate further submitted that based on the above complaint, a case was registered by the 1st respondent in Crime No.40 of 2021, for offence under Sections 406, 417 and 420 IPC on 09.02.2021. Now the investigation is at the premature stage and the 1st respondent Police is to proceed further investigation in this case, examine the petitioner and other witnesses and collect relevant documents. In this case, the FIR has been registered only on 09.02.2021. He further submitted that only after conclusion of investigation, the contention of the petitioner can be verified. As on date, there are statements and materials to show that the petitioner had actively taken part in forging DTCP approval plan and his involvement in sale of public purpose land. Hence, he prayed for dismissal of the petition.

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

9.It is seen that the petitioner in connivance with the others had forged DTCP approval plan and projected the public purpose lands as though it is a housing plot assigned as 'C' Extension, PNT Colony, Sundakamuthur, Coimbatore and the plot numbers have been assigned including alphabets.

10.Now the investigation is at the premature stage and the petitioner immediately after filing of the FIR had approached this Court. Hence, the role played by the petitioner has to be investigated and also the other persons involved in the forgery.

11.In view of the above, this Court cannot venture into conducting a mini investigation into the matter and it therefore does not fall within the ambit of its jurisdiction under Section 482 of Cr.P.C. Any finding on facts will also have a bearing on the investigation conducted by the 1st respondent Police.



is not inclined to interfere with the investigation conducted by the 1st respondent at this stage.

13. In the result, this Criminal Original Petition is dismissed and the 1st respondent Police is directed to proceed further with the investigation in accordance with law and complete the investigation and file a charge sheet or a closure report, as the case may be, preferably within a period of six months from the date of receipt of a copy of this order.

Sd/-

Assistant Registrar (CS-VIII)

//True Copy//

Sub Assistant Registrar

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To

1. The Inspector of Police,
Perur Police Station,
Coimbatore.

2. The Public Prosecutor,
High Court, Madras.

Cr1.O.P.No.10947 of 2021

PCH(CO)
GN(10/08/2021)