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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.12.2021.

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THE HON'BLE MR.JUSTICE A.D.JAGADISH CHANDIRA

Crl.R.C.No.857 of 2021

S.Sasi Kumar

...Petitioner

vs.

State represented by its,
The Inspector of Police,
A-4 Red hills Police Station,
Chennai.

...Respondent

Prayer: Criminal Revision Petition filed under Section 397 r/w 401 of Criminal Procedure Code, to set aside the order in C.M.P.No.5008 of 2021 on the file of the learned Judicial Magistrate No.II, Ponneri dated 18.10.2021 and consequently, direct the respondent herein to register the FIR.

For Petitioner : Mr. S.Suresh

For Respondent : Mr.S.Sugendran
Govt. Advocate (Crl.Side)

ORDER

The Criminal Revision has been filed against the order dated 18.10.2021, passed by the learned Judicial Magistrate No.II, Ponneri, dismissing the petition in C.M.P.No.5008 of 2021, filed under Section 156(3) Cr.P.C., seeking a direction to the Inspector of Police, M4 Red Hills Police Station to register an FIR based on the complaint dated 20.03.2020.

2. The submissions of the learned counsel appearing for the petitioner is as under :-

(a)The petitioner is the Manager of M/s. VKB Enterprises Private Limited and when he intended to purchase a land for his business, one Pramod Kumar Bhalottia, claiming himself to be the owner of the properties in (i) Survey No.138/3, measuring 35 cents, (ii) Survey No.139/4B, measuring 17 cents and (iii) Survey No.139/6, measuring 22 cents, totalling to 74 cents, situated at No.5, New No.28, Ariyalur group, Theeyampakkam Village, Ambattur Taluk, Thiruvallur



District, having purchased the property from one M.S.Shanmugam and M.S.Palanivelu through their Power Agent P.Kumaran vide Document No.5815 of 2005 on 03.11.2005 registered at SRO Redhills, has approached the petitioner.

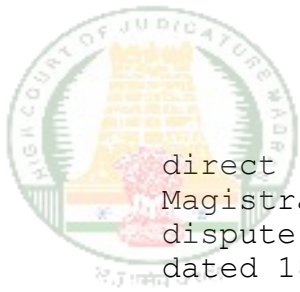
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(b) Believing the representation made by the said Pramod Kumar Bhalottia, the petitioner's company had purchased the property vide Document No.13168 of 2011 dated 21.11.2011, registered at SRO Redhills after paying the consideration of Rs.32,26,400/- and the amount was paid through Cheque bearing No.000024, dated 22.07.2011. The said Pramod Kumar Bhalottia had claimed that he was the absolute owner of the property and that the property is free from any encumbrance and on believing his words the petitioner's company had parted with the entire amount. During the year 2019, the petitioner's company intended to put up the godown in the lands and when they had attempted to conduct boomi pooja, they were prevented by some persons in the locality and on enquiry the petitioner was shocked to know that one Thanigachalam had already filed a suit in O.S.No.161 of 2006 on the file of the District Munsif Court, Thiruvottiyur against the said Pramod Kumar Bhalottia and his predecessors in title, seeking a declaration that the sale deed dated 03.11.2005, in favour of the said Pramod Kumar Bhalottia is not valid one and binding the said Thanigachalam and the learned District Munsif, by order dated 03.02.2011 had declared the earlier sale deed as null and void.

(c) Though the said Pramod Kumar Bhalottia was a party to the suit and he was aware of the order passed by the Civil Court, suppressing that fact, he had claimed himself to be the owner of the property and sold the same to the petitioner's company on 21.11.2011.

(d) It is thus clear that a fraud has been played against the petitioner's company by the said Pramod Kumar Bhalottia and aggrieved against the same, the petitioner had given a complaint to the respondent police on 16.03.2020, but the respondent, for the reasons best known to them, refused to receive the complaint and thereafter, the petitioner had given an online complaint to the Commissioner of Police, Chennai on 20.03.2020. The petitioner was given an acknowledgment bearing No.EUS20033813. The complaint was forwarded to the Deputy Commissioner of Police, Madhavaram and subsequently it was forwarded to the Assistant Commissioner of Police, Puzhal on 09.07.2020 and thereafter, no action has been taken by the Assistant Commissioner of Police.

(e) Therefore, the petitioner had approached the learned Judicial Magistrate No.II, Ponneri by filing a petition in C.M.P.No.5008 of 2021, under Section 156(3) of Cr.P.C to



direct the respondent to register an FIR, however, the learned Magistrate No.II, Ponneri, on erroneous ground, stating that the dispute is of civil in nature, dismissed the petition vide order dated 18.10.2021.

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(f) The said Pramod Kumar Bhalottia was fully aware that the property does not belong to him, however he induced the petitioner by claiming himself to be the owner of the property and had cheated the petitioner and the petitioner had parted with the huge amount of Rs.32,26,400/- and therefore, a clear case of fraud has been made out, whereas, the Judicial Magistrate No.II, dismissed the petition.

3. Mr.S.Sugendran, learned Government Advocate (Crl.Side) appearing for the respondent would submit that since the petitioner did not cooperate for the investigation, no further action has been taken.

4. Heard the learned counsel appearing for the parties.

5. On perusal of the materials available on record, this Court finds that it is a clear case of fraud. The said Pramod Kumar Bhalottia, being a party to the suit filed by one Thanigachalam and being aware of the judgment and decree against himself, had claimed to be the absolute owner of the property and sold the same to the petitioner and thereby cheated him to the tune of Rs.32,26,400/-. Therefore, a prima facie case is made out to register an FIR and investigation of the same.

6. In view of the above order dated 18.10.2021 in C.M.P.No.5008 of 2021 passed by the learned Judicial Magistrate No.II, Ponneri is set aside and the respondent is directed to register a case, complete the investigation and file the final report within a period of four months from the date of receipt of a copy of the order.

7. The Criminal Revision Case is, accordingly, disposed of.

Sd/-

Assistant Registrar(CS-IV)

//True Copy//

Sub Assistant Registrar

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To

1. The Judicial Magistrate No.II,
Ponneri.
2. The Inspector of Police,
A-4 Red hills Police Station,
Chennai.
3. The Public Prosecutor,
High Court of Madras.

+1cc to Mr.S.Suresh, Advocate, S.R.No.66559

Cr1.R.C.No.857 of 2021

EV (CO)
RGA (22/12/2021)