IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 25.03.2022
PRONOUNCED ON : 25.04.2022

CORAM

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

Crl.O.P.No.10307 of 2017 and Crl.M.P.Nos.6785 & 6786 of 2017 and Crl.O.P.No.10494 of 2017 and Crl.M.P.Nos.6929 & 7718 of 2017 and Crl.O.P.No.14855 of 2017 and Crl.M.P.Nos.1072, 1073, 9381 & 9382 of 2017

Crl.O.P.No.10307 of 2017:
Naidu Amrutesh Reddy ... Petitioner

Vs.

1.The Inspector of Police,
Central Crime Branch (XV-Team),
Chennai.
(Crime No.34/09).

2.D.Nagarajan ...Respondents

Crl.O.P.No.10494 of 2017:
B.Karthikeyan ... Petitioner

Vs.

1.State
Represented by The Inspector of Police,
Central Crime Branch (XV-Team),
Chennai.
(Crime No-34/09).

2.D.Nagarajan ...Respondents

Crl.O.P.No.14855 of 2017:
Saraswathy ... Petitioner

Vs.

1.State by:
The Inspector of Police,
Central Crime Branch,
XV Team, Vepery,
Chennai.
(Land Grabbing Cell).

2.D.Nagarajan ... Respondents

PRAYER in Crl.O.P.No.10307 of 2017: Criminal Original Petition is filed under Section 482 of the Code of Criminal Procedure, to call for the records and to quash the supplementary final report dated 15.11.2016 in C.C.No.66 of 2013, on the file of the Special Metropolitan Magistrate (Land Grabbing Cases) No.II, Periyamed, Chennai in Crl.O.P.No.10307 of 2017 in so far as the petitioner is concerned.

PRAYER in Crl.O.P.No.10494 of 2017: Criminal Original Petition is filed under Section 482 of the Code of Criminal Procedure, to call for the records and quash the revised final report filed by the 1st respondent on 15.11.2016 in C.C.No.66/2013 pending on the file of the learned Metropolitan Magistrate, Special Court for Exclusive Trial of Land Grabbing Cases No-II, Periamet, Chennai as illegal.

PRAYER in Crl.O.P.No.14855 of 2017: Criminal Original Petition is filed under Section 482 of the Code of Criminal Procedure, to call for records pertaining to C.C.No.66 of 2013 on the file Special Court Metropolitan Magistrate Court, (Land Grabbing) No – II, Periyamedu, Allikulam Chennai -3, and quash all further proceedings as against the petitioners.

For Petitioner in
Crl.O.P.No.10307 of 2017: Mr.V.Karthic, Senior Counsel for
Mr.Adithya Varadharajan

For Petitioner in
Crl.O.P.No.10494 of 2017 : Mr.S.N.Kirubanandham

For Petitioner in
Crl.O.P.No.14855 of 2017 : Mr.M.S.Soundara Rajan

For R1 in all cases : Mr.A.Damodaran,
Additional Public Prosecutor

For R2 in all cases : Mr.K.Thilageswaran

*****

COMMON ORDER

All these Criminal Original Petitions have been filed to quash the proceedings in C.C.No.66 of 2013, on the file of the Special Metropolitan Magistrate Court No.II (Land Grabbing Cases), Periyamet, Chennai/trial Court.

2.Since all these petitions arising out of case in C.C.No.66 of 2013, this Court decides to dispose of the same by way of common order.

3.For the sake of convenience and clarity, the petitioners are referred as accused, as per their rank, in the charge sheet.

4.The 2nd respondent/defacto complainant lodged a complaint before the 1st respondent Police and a case in Crime No.34 of 2009 was registered on 28.01.2009 against six persons. On completion of investigation, charge sheet was filed and the same was taken on file as C.C.No.5718 of 2010 by the learned XI Metropolitan Magistrate, Saidapet Chennai. During trial, the case was transferred to the file of the Special Metropolitan Magistrate Court No.II (Land Grabbing Cases), Periyamet, Chennai and renumbered as C.C.No.66 of 2013. Thereafter, the 2nd respondent finding involvement of the other persons, again gave a complaint before the 1st respondent Police on 27.02.2012, but no action was taken. Hence, the 2nd respondent filed a petition before this Court under Section 482 Cr.P.C., in Crl.O.P.No.32012 of 2013 seeking to register the complaint, dated 27.02.2012. This Court, by order, dated 05.08.2014 finding the earlier complaint of the 2nd respondent, which was registered in Crime No.34 of 2009 and the present complaint, dated 27.02.2012 are similar and identical, directed the 2nd respondent to approach the concerned Magistrate and file appropriate petition for further investigation. As per order of this Court, dated 05.08.2014, the 2nd respondent filed a petition before the trial Court in Crl.M.P.No.599 of

2014 for further investigation. The trial Court, by order, dated 14.10.2014 directed the 1st respondent Police to conduct further investigation under Section 173(8) Cr.P.C. As per the order of the trial Court, the 1st respondent Police conducted further investigation and filed supplementary charge sheet arraying A7 to A11 as accused in C.C.No.66 of 2013, against which, the petitioners/A8, A9 & A11 have filed these Criminal Original Petitions.

5.The gist of the case is as follows:-

(i)The 2nd respondent's wife Mangalam and his sister-in-law Alamelu purchased the property vide, document Nos.2396 & 2395 of 1973 from one Kamalakannan and obtained patta Nos.810 & 811 respectively from Taluk Office, Ambattur for 67 cents, each 33.5 cents. The said Alamelu passed away on 20.12.2003 leaving behind her husband Rajaram and her son Sairam. Thereafter, the said Rajaram and Sairam executed a registered power of attorney in favour of the 2nd respondent, vide document No.290 of 2004 to deal with the property. During the month of November 2007, the 2nd respondent came to know that A1, the Proprietor of Maruthi Agency had entered into the property creating an unregistered sale agreement in favour of A2 with regard to the above said properties. When the 2nd respondent obtained encumbrance certificate for the said properties, he was shocked and surprised to see that a forged document was created as though the 2nd respondent's wife and his sister-in-law executed a power of attorney in the name of A5 in Australia, vide document Nos.381 & 382 of 2008 registered at Sub Registrar, Coimbatore. Using this forged power of attorney, two sale agreements in favour of A6 were registered, vide document Nos.3139 & 3140 of 2008, on the file of the Sub Registrar Office, Virugambakkam. When the 2nd respondent questioned the same with the accused, he was abused and threatened and not to make any claim over the property. Hence, he lodged a complaint against A1-Ramesh Raj, A2-R.S.Narayanan, A3-Arokiyasamy, A4-Rajesh, A5-K.P.R.Ramanathan and A6-Vasan. After completion of preliminary enquiry, a case in Crime No.34 of 2009 came to be registered by the 1st respondent Police against A1 to A6. After completion of investigation, charge sheet was filed against them, which was taken on file as C.C.No.5718 of 2010 by the learned XI Metropolitan Magistrate, Saidapet Chennai. During trial, the case was transferred to the file of the

Special Metropolitan Magistrate Court No.II (Land Grabbing Cases), Periyamet, Chennai and renumbered as C.C.No.66 of 2013.

(ii)During investigation, it revealed that A1 and A2 created forged lease deed, dated 24.11.2007 and entered into the property of the 2nd respondent. Likewise, A3 executed unregistered power of attorney on the property of the 2nd respondent in favour of A4, vide document No.1601 of 1957. On the strength of the same, A3 approached the Assistant Engineer, Tamil Nadu Electricity Board, Chennai for electricity connection for the 2nd respondent's property. On coming to know about the same, the 2nd respondent made his objection to the Assistant Engineer, TNEB, Chennai, who on verification of the same, cancelled the representation of A3 for getting electricity connection. Further, A3 obtained a forged legal heir certificate from the Office of the Chennai Corporation for getting electricity connection on the property of the 2nd respondent. It is also revealed during investigation that there was a deep-rooted conspiracy among the accused projecting that when the 2nd respondent's wife and his sister-in-law were residing in Australia, they executed a gave power of attorney in favour of A5, vide document

Nos.381 & 382 of 2008 and got adjudicated the same before the Sub Registrar Office, Coimbatore. Using this forged power of attorney, two sale agreements in favour of A6 were registered, vide document Nos.3139 & 3140 of 2008, on the file of the Sub Registrar Office, Virugambakkam.

(iii)During further investigation, it was revealed that A1 and A2 in collusion with A7 created a forged sale deed, vide document No.1427 of 1967, dated 12.04.1967 registered at Sub Registrar Office, Saidapet as if A7's father Davamani Devar purchased the property from Kamalakannan, who was the original owner. Following the same, the document No.1427 of 1967 got inserted in the concerned register of the Sub Registrar Office, Saidapet and thereby, encumbrance created over property of the 2nd respondent. Thereafter, using the forged sale deed in document No.1427 of 1967, A7 approached Ambattur Taluk Office seeking transfer of patta by submitting forged encumbrance certificate, legal opinion of the Advocate and other documents, which was forwarded to A8-Village Administrative Officer, Valasaravakkam. A8 gave report to A9-Revenue Inspector, Ambattur stating that the 2nd respondent's wife and his sister-in-law have no right over the property in patta Nos.810 & 811 for 68 cents of land and the patta was wrongly granted in favour of them under UDR scheme. A9-Revenue Inspector, Ambattur recommended the report of A8-VAO and submitted the same to Ambattur Taluk Office by office letter No.405 of 2011, dated 03.06.2011. The Scrutiny Assistant in Ambattur Taluk Office not verified the report received from A9. On the other hand, A10-Regional Deputy Tahsildar, Valasaravakkam in conspiracy with A7-Surili Andavar cancelled the patta Nos.810 & 811 issued in favour of the 2nd respondent's wife and his sister-in-law and issued patta in the name of A7-Suruli Andavar in patta No.10986.

(iv)The above act of A8-Village Administrative Officer, A9-Revenue Inspector and A10-Regional Deputy Tahsildar, is in gross violation of the procedure contemplated as per the Government Orders and Revenue Board Directions. Originally, when patta is wrongly granted to someone under UDR scheme, the District Revenue Officer is the authorized person to cancel and to issue fresh patta as per G.O.Ms.No.385, dated 17.08.2004. In this case, the said Government Order is violated. Using the patta No.10986, A7 sold the property to

A11 by receiving sale consideration of Rs.4,33,00,000/- on various dates vide document No.6266 of 2011, dated 10.11.2011.

(v)The 1st respondent Police finding the above deep-rooted conspiracy among A7 to A11 during further investigation, filed supplementary charge sheet in C.C.No.63 of 2013 listing LW1 to LW27 and annexing several documents.

6.The submissions of the learned counsel for the petitioner/A8 in Crl.O.P.No.10494 of 2017 is as follows:-

(i)The learned counsel submitted that A8-Karthikeyan, Village Administrative Officer, Valasaravakkam joined service as Village Administrative Officer during 1982 and retired peacefully during the month of February 2012. He completed 30 years of service with unblemished record. After five years of his retirement to his shock and surprise, the 1st respondent Police came to his home, served the summon on 27.05.2016 asking him to appear before the 1st respondent Police for enquiry. On receipt of the same, A8 appeared before the 1st respondent Police and informed that he only forwarded the spot inspection report to his superior officer viz., A9-Revenue Inspector, who recommended the same to A10-Regional Deputy Tahsildar, who passed appropriate orders. A8-VAO has got no role in it. It is Tahsildar, who is the competent authority to effect transfer of name or change of patta on perusal of records. If any mistake is found, the transfer of patta can be cancelled. Earlier, the 2nd respondent filed a suit in O.S.No.117 of 2012 for the same property before the learned District Munsif, Poonamallee against some private persons, wherein he sought for injunction and the same was declined. After being unsuccessful in the civil proceedings, he filed a petition for further investigation before the trial Court and the same was ordered. During further investigation, A8-Karthikeyan and four others arrayed as accused in this case.

(ii)The learned counsel further submitted that the further investigation and revised final report are illegal and untenable in law. A8-Karthikeyan had only submitted the spot inspection report to his higher authorities, other than that, he has no role in the alleged issuance of patta in favour of A7. A8-Karthikeyan cannot be prosecuted under criminal law that too, many years after his retirement. He further submitted that the trial Court failed to consider that the same investigating agency cannot carry out reinvestigation, it would fill the lacuna in the earlier charge sheet filed before the trial Court. Once the trial Court took cognizance on the charge sheet, it becomes documents of the Court, thereafter the Police have nothing to do with the same. Cr.P.C., permits only supplement/additional charge sheet with the leave of the trial Court, that too only at the instance of the investigating officer and not at the instance of the defacto complainant. Thus, the entire process and steps adopted by the 1st respondent Police in conducting further investigation at the instance of the 2nd respondent and arraying A8-Karthikeyan as accused, is improper and *ab-initio*. Hence, he prayed for quashing of the proceedings against A8.

7.The submissions of the learned counsel for the petitioner/A9 in Crl.O.P.No.14855 of 2017 is as follows:-

(i)The learned counsel submitted that on 27.05.2011, A7 submitted an application along with encumbrance certificate and legal opinion to A8-Karthikeyan to cancel the patta issued under UDR scheme in favour of the 2nd respondent's wife and his sister-in-law as per G.O.Ms.No.385, dated 17.08.2004. A9-Sarasvathy, Revenue Inspector on the report of A8-Karthikeyan, Village Administrative Officer recommended the same and forwarded to Tahsildar Office vide office letter No.405 of 2011, dated 03.06.2011. After following further procedure and scrutiny of documents by the dealing Assistant in the Tahsildar Office, the Tahsildar to forward the report to the Revenue Divisional Officer. A10-Mynavathy, Regional Deputy Tahsildar should have forwarded the letter received from A9-Sarasvathy to the District Revenue Officer, who is the competent authority to cancel the patta issued under UDR scheme as per the G.O.Ms.No.385, dated 17.08.2004. But, in this case, A10-Mynavathy, Regional Deputy Tahsildar cancelled the patta Nos.810 & 811 issued in favour of the 2nd respondent's wife and his sister-in-law and issued patta in the name of A7-Suruli Andavar in patta No.10986 on the second application filed by A7 following G.O.Ms.No.210 of 2011. The patta No.10986 issued by A10-Mynavathy, Regional Deputy Tahsildar is not based on A9-Sarasvathy's recommendation, it is based on the spot inspection report of A8-Karthikeyan, Village Administrative Officer. A9-Sarasvathy was not involved in processing and issuing patta No.10986 in favour of A7.

(ii)The learned counsel further submitted that when the first application of A7-Surili Andavar, dated 27.05.2011 was pending, the Government independently finding huge pendency of applications for transfer of patta and the procedure adopted was cumbersome, passed G.O.Ms.No.210, dated 08.07.2011 in order to avoid delay in issuing patta. As per the Government Order, the patta transfer has to be done within a specified time. The Village Administrative Officer, on receipt of the application for patta transfer, to verify the same and send it to the concerned Tahsildar Office. Based on the application and other documents submitted, the Deputy Tahsildar and Firka Revenue Inspector to verify the same, conduct enquiry on the application, if satisfied, patta to be transferred in the name of applicant. In this case, taking advantage of G.O.Ms.No.210, dated 08.07.2011, second application for transfer of patta was submitted by A7 on 27.09.2011 to Ambattur Taluk Office and the same was forwarded to A8 on 10.10.2011. Subsequently, a report was directly sent by A8 to A10. On receipt of the same, A10 issued patta in favour of A7 in R.P.T.No.3823 of 2011, dated 31.10.2011 and assigned patta No.10986. A9-Sarasvathy had no role in issuance of patta. The above particulars were obtained by A9 through Right to

Information Act. From the above, it is confirmed that the recommendation of A9 in office letter No.405 of 2011, dated 03.06.2011 was never acted upon, it was only on the second application, dated 27.09.2011 of A7, the patta was issued in favour of A7. Hence, the forged patta No.10986 was not issued on the recommendation of office letter No.405 of 2011 of A9. In such circumstances, A9 has no role with the issuance of patta No.10389 in favour of A7. Using the said forged patta No.10986, A7 sold the property to A11 vide document No.6266 of 2011, dated 10.11.2011 for sale consideration for Rs.4,33,00,000/-.

(iii)He further submitted that A9's recommendation in office letter No.405 of 2011, dated 03.06.2011 was kept pending and no action was taken on it. The case of the prosecution itself is that A9 recommended the spot inspection report prepared by A8 for cancelling patta Nos.810 & 811 issued under UDR scheme, by her office letter No.405 of 2011, dated 03.06.2011 and nothing more. In this case, A9 is attempted to be prosecuted for forwarding the spot inspection report of A8 for cancelling the patta Nos.810 & 811 issued in favour of the 2nd respondent's wife and his sister-in-law. Admittedly, this spot inspection report never considered and acted upon. LW17-Balamurugan, Tahsildar, Ambattur stated about earlier application of A7 for transfer of patta being processed, based on which, no patta was issued. LW17 further confirmed that as per G.O.Ms.No.385, dated 17.08.2004, it is the District Revenue Officer, who is empowered to cancel or change patta. In this case, it is A8-Village Administrative Officer, who on his own gave a report. LW18-Sandhiya, Personal Assistant to Collector and other revenue officials confirmed that R.P.T.No.3823 of 2011, dated 31.10.2011 is of the Ambattur Taluk Office. A8-Village Administrative Officer prepared the spot inspection report for change of patta and sent to A10 directly. They further confirmed that as per G.O.Ms.No.210, dated 08.07.2011 procedures for transferring and issuing patta was simplified. LW24-Dhanushkodi, Tahsildar, Madhuravoyal produced relevant files and not stated anything about A9 except her service particulars. The other witnesses from the Revenue Department viz., LW25-Manivannan, Record Clerk, LW26-Vijayakumar, Assistant, Tahsildar Office Ambattur, LW27-Srinivasan, Tahsildar, Madhuravoyal were examined during investigation. LW26 Vijayakumar in his statement stated that the spot inspection report favouring A7 was prepared by A8-Village

Administrative Officer and A9 only signed and forwarded the same on the earlier occasion. A10-Regional Deputy Tahsildar directly ordered change of patta in favour of A7 on the second application of A7, which was forwarded through A8-VAO.

(iv)He further submitted that the Revenue Department took departmental action against A9 under Section 17(b) of Tamil Nadu Civil Services (Discipline and Appeal) Rules vide proceedings No.13674/2016/A3, dated 19.05.2017. The four charges framed against A9 in the departmental proceedings are identical to the charges now she is facing. In the annexure to the four charges, this case is specifically referred and with this primary ground, A9 was charged and proceeded in the departmental proceedings and later, dropped. A9 sought information from the concerned official with regard to her departmental proceedings through the Right to Information Act. The Public Information Officer/Personal Assistant (General) to Collector, Thiruvallur vide R.C.No.13674/2016/A3, dated 25.08.2021 sent the information sought by A9, wherein it is seen that the Special Deputy Collector (Social Security Scheme), Thiruvallur was appointed as enquiry officer vide proceedings No.13674/2016/A3, dated 19.01.2020. After completion of enquiry, the Enquiry Officer, by report, dated 17.03.2020 found that the four charges framed against A9 are not proved.

(v)The learned counsel further submitted that the four charges framed against A9 in the departmental proceedings are identical to the charges now she is facing. The Enquiry Officer after detailed enquiry held that the charges are not proved. In the departmental proceedings, the standard of proof is only on preponderance of probability, then to charges not proved. Hence, he prayed for quashing of proceedings against A9.

(vi)In support of his submissions, the learned counsel relied on the following decisions:-

- "***P.Jagadeesan Versus The Inspector of Police, Commercial Crime Investigation Wing (CID), Tiruchirapalli in Crl.O.P(MD).No.18221 & 18222 of 2013***", wherein this Court relying on the decision of the Hon'ble Apex Court in the case of "***P.S.Rajya Versus State of Bihar reported in (1996) 9 SCC 1***", quashed the criminal proceedings against the accused, when the charges in the departmental proceedings and criminal case are similar and identifial.

- “***Vinubhai Haribhai Malaviya and Ors., Versus The State of Gujarat and Ors., reported in AIR 2019 SC 5233***” for the preposition that at the instance of the defacto complainant, no further investigation can be carried out.
- “***CBI Hydrabad Versus K.Narayanan Rao reported in (2012) 9 SCC 512***”, wherein it had held that '*even if some acts are proved to have committed, it must be clear that they were so committed in pursuance of an agreement made between the accused persons who were parties to the alleged conspiracy. Inferences from such proved circumstances regarding the guilt may be drawn only when such circumstances are incapable of any other reasonable explanation*'.
- “***K.S.Narayanan and Ors., Versus S.Gopinathan reported in (1982) Crl.L.J., 1611***”, wherein it had held that '*merely levelling a charge of conspiracy, without mentioning how, where, when and which of the conspirators hatched the conspiracy and for what purpose, or circumstances warranting an inference of existence of a conspiracy, is not enough to bring persons under conspiracy.*'
- “***State of Kerala Versus P.Sugathan & another reported in CDJ 2000 SC 453***”, wherein it had held that '*the circumstances in a case, when taken together on their face value, should indicate the meeting of the minds between the conspirators for the intended object of committing an illegal act or an act which is not illegal,*

by illegal means. A few bits here and a few bits there on which the prosecution relies cannot be held to be adequate for connecting the accused with the commission of the crime of criminal conspiracy.'

- "***K.R.Purushothaman Versus State of Kerala reported in CDJ 2005 SC 818***" wherein it had held that '*the suspicion can not take the place of a legal proof and prosecution would be required to prove each and every circumstance in the chain of circumstances so as to complete the chain.*'
- "***NCT of Delhi Versus Navjot Sandhu @ Afsan Guru reported in JT 2005 (7) SC 1***", wherein it had held that '*we are of the view that those who committed the offences pursuant to the conspiracy by indulging in various overt acts will be individually liable for those offences in addition to being liable for criminal conspiracy; but, the non-participant conspirator cannot be found guilty of the offence or offences committed by the other conspirators.*'

8.The submissions of the learned Senior Counsel for the petitioner/A11 in Crl.O.P.No.10307 of 2017 are as follows:-

(i)The learned Senior Counsel submitted that during the year 2011, A7 offered to sell the property in survey Nos.47/1, 47/2, 47/1B and 47/2A2, door No.20, Sri Devikuppam Main Road, Chennai totally measuring to the extent of 68 cents. A11 before venturing to purchase the property, did legal due diligence by scrutinizing all the title documents pertaining to the property which was traceable from the year 1932 onwards. After giving paper publication, A11 entered into an agreement of sale on 25.04.2011 and the sale consideration was fixed for Rs.4,33,00,000/-, which has to be paid by three months. Thereafter, A11 applied for encumbrance certificate from the year 1910 to 06.04.2010 finding no encumbrance. After due diligence and after obtaining legal opinion, A11 purchased the property from A7 vide document No.6266 of 2011, dated 10.11.2011. After purchasing the property, A11 intended to put up a compound wall in the property and when the work was at the verge of completion, he was informed by the local Police that a criminal case was lodged by the 2nd respondent claiming that he is owner of the property and a civil suit is pending in O.S.No.117 of 2012 before the learned District Munisf, Poonamallee. Thereafter, A11 received intimation from the Directorate of Enforcement, Chennai Zonal Office, Chennai calling upon A11's explanation with regard to the sale consideration paid by him to A7 and the source of income. On 22.03.2017, A11 received the provisional attachment order passed by the Directorate of Enforcement and thereafter, received documents regarding the entire case on 26.04.2017. Only after going through the papers, A11 came to know about the criminal cases which are pending with respect to the above property and also about A11 was deceived and cheated by A7.

(ii)The learned Senior Counsel further submitted that the 2nd respondent filed Crl.M.P.No.599 of 2014 before the trial Court seeking further investigation, in which the trial Court, by order, dated 14.10.2014 ordered further investigation to be conducted by the 1st respondent Police under Section 173(8) of Cr.P.C. After further investigation, supplementary charge sheet was filed, in which, another 5 persons arrayed as A7 to A11. He further submitted that the trial Court ordering further investigation is non est in the eye of law, in view of the judgment of the Hon'ble Full Bench reported in "***2017 (2) CTC 241 in the case of Chinnathambi @ Subramani Versus State, rep. by the Inspector of Police, Vellakovil Police Station, Tirupur***" and also the judgment of the Hon'ble Apex Court reported in "***2017 (2) MLJ (Crl.) 45 in the case of Amrutbhai Shambhubhai Patel Versus Sumanbhai Kantibhai Patel and Ors.***" In this case, the FIR was registered in the year 2009 that is even before A11 purchased the property from A7 in the year 2011. The trial Court as well the Investigating Officer failed to see that the transaction entered between A11 and A7 is an independent transaction and by no stretch of imagination, would come within the term "*In the course of the same transaction*".

(iii)He further submitted that the reinvestigation or fresh investigation can be conducted only on the directions of the Constitutional Court like High Court and Hon'ble Apex Court and not by the Magistrate. In support of the same, the learned counsel placed reliance on the judgment of the Hon'ble Apex Court in the case of "***Vijay Tyagi Versus Irshad Ali @ Deepak and others reported in (2013) 5 SCC 762***". The admitted case of the prosecution is that A11 purchased the property for a valid sale consideration for Rs.4,33,00,000/- and the said amount was paid through bank. The petitioner at the most to be classified as innocent purchaser. In support of the same, he relied on the decision of the Hon'ble Apex Court in the case of "***Smt.Rekha Jain and Anr., Versus The State of Uttar Pradesh and Ors., in Criminal Appeal No.136 of 2022***". In this case, A11 is a genuine purchaser, if at all there have been any forgery created, it is without the knowledge of A11. In support of the same, he relied on the decision of the Hon'ble Apex Court in the case of "***Mohammed Ibrahim and others Versus State of Bihar and another reported in (2009) 8 SCC 751***", which is subsequently followed in the case of "***Sheila Sebastian Versus R.Jawaharaj and another reported in (2018) 7 SCC 581***". Thus, looking the gravamen of the charge as projected by the prosecution in any angle, no prosecution can be launched against A11. In this case, A11 is an innocent purchaser and, is the victim of circumstances, who got deceived and cheated to the tune of Rs.4,33,00,000/-. No prudent person will invest such huge amount, had he known about the forgery committed and pendency of earlier criminal case with regard to the subject property.

(iv)He further submitted that A11 hails from a business family, after his education, he joined his father's business and continued to manage the entire business of warehousing and logistics and at present he is the Managing Director of about 10 companies and major entities being M/s.Continental Warehousing Corporation (Nhavasa Seva) and M/s.NDR Warehousing Private Limited. A11 made all payments in purchasing the subject property through the bank, which is confirmed from the statement of LW19, Assistant General Manager of Andhra Bank, Esplanade branch. In the statement of LW19, he listed out 11 transactions taken place in the account of A11 to A7 for Rs.4,33,00,000/-. LW20, Manager, Indian Overseas Bank, Alandur Branch confirmed the statement of LW19. In fact, LW21, the Bank Manager of ICICI Bank, Kilpauk Branch stated that A1 maintaining bank account in his bank and confirmed the receipt of around Rs.25,00,000/- by A1 to remove the encroachment from the property.

(v)He further submitted that A11, who is in logistics business, is residing at Astalakshmi Nagar, Valasaravakkam, Chennai and he found the subject property would be easy for management of his business. Hence, he purchased the subject property. He manages a business, which has a turn out to the tune of Rs.400 Crores and more than 4000 employees are working in his group. Hence, A11 cannot be termed as conspirator along with A7 and others in purchase of the subject property. Further, the Directorate of Enforcement, Chennai Zonal Office, Chennai had initiated proceedings against A11 in C.C.No.14 of 2017 in ECIR/11/CEZO/2011 (VSK) on the file of the Principal Sessions Court, Chennai (Special Court Constituted under Section 43(1) of the Prevention of Money Laundering Act, 2002), against which, A11 filed Crl.O.P.No.5099 of 2018. The Hon'ble Division Bench of this Court in Crl.O.P.No.5099 of 2018 found that how in a deceitful manner, the other accused have cheated A11 by receiving the sale consideration of Rs.4,33,00,000/-, thereafter, executed the sale deed in document No.6266 of 2011 in favour of A11. The 2nd respondent herein also appeared before the Hon'ble Division Bench in Crl.O.P.No.5099 of 2018 and filed his objections. A11 informed that he is willing to give up all the claims to the subject land and filed affidavit to that effect in Crl.O.P.No.5099 of 2018. Considering the submissions of A11 and also other facts, the Hon'ble Division Bench quashed the proceedings in C.C.No.14 of 2017 in ECIR/11/CEZO/2011 (VSK) on the file of the Principal Sessions Court, Chennai (Special Court Constituted under Section 43(1) of the Prevention of Money Laundering Act, 2002) against A11. Subsequently, on 14.03.2022, the key of the subject property, which was fenced and kept under lock by A11, was handed over to the 2nd respondent. On 24.03.2022, the physical possession of the land to the extent of 67 cents in survey Nos.47/1, 47/2 at Valasaravakkam Village, Ambattur Taluk handed over to the 2nd respondent. Now, the 2nd respondent has got no objection to quash the proceedings as against A11 in C.C.No.66 of 2013 and the 2nd respondent also filed an affidavit to that effect. Hence, he prayed for quashing of the proceedings against A11.

9.The learned counsel for the 2nd respondent submitted that in this case, all the accused in a concerted manner, created forged documents and thereby, attempted to usurp the property of the 2nd respondent. The property was purchased by the 2nd respondent's wife and his sister-in-law as stated above. Initially, A1-Rameshraj and A2-R.S.Narayanan created forged lease deed, dated 24.11.2007. Further, a forged power of attorney was created by A5 as though the 2nd respondent's wife and sister-in-law executed the same in his favour when they were residing in Australia vide document Nos.381 & 382 of 2008, registered at Sub Registrar Office, Coimbatore. Using this forged power of attorney, two sale agreements in favour of A6-Vasan got registered, vide document Nos.3139 & 3140 of 2008, on the file of the Sub Registrar Office, Virugambakkam. Likewise, A3-Arokiyasamy executed unregistered power of attorney over the property of the 2nd respondent in favour of

A4-Rajesh, vide document No.1601 of 1957. Thus, A1 to A6 in a concerted manner had created the forged documents and using the same, created encumbrance and also attempted to usurp the property. The 2nd respondent, in a sustained manner, approached the concerned authorities at every stage by filing petitions, objections and making complaint. Finally, a case in Crime No.34 of 2009 was registered by the 1st respondent Police and charge sheet was filed listing A1 to A6 as accused. In the meanwhile, a civil suit in O.S.No.117 of 2012 was filed.

10.The learned counsel further submitted that after the above episode, A7 created a forged document as though when he was minor, aged about 6 years, his father purchased the subject property from Kamalakannan and he managed to insert the property documents and details, record sheet in the concerned registers of the Registration Department. Thereafter, A7 entered into conspiracy with the revenue officials namely A8-VAO, A9-Revenue Inspector, A10-Regional Deputy Tahsildar. The original UDR patta of the 2nd respondent's wife and his sister-in-law got cancelled and new patta was granted in favour of A7. Using the same, a sale deed was executed by A7 in favour of A11 for sale consideration of Rs.4,33,00,000/-. For commission of this offence, a complaint to the 1st respondent Police was made, who failed to take any action, thereafter, the 2nd respondent approached this Court in Crl.O.P.No.32012 of 2013 and this Court directed the 2nd respondent to file appropriate petition under Section 173(8) Cr.P.C., before the concerned Court. Thereafter, Crl.M.P.No.599 of 2014 was filed before the trial Court. The trial Court passed the order for further investigation to be conducted by the 1st respondent Police. In the order of the trial Court, instead of further investigation, it is typed as reinvestigation. Except for typographical error, no reinvestigation was conducted, it was only further investigation. It was on the directions of this Court, a petition was filed by the 2nd respondent before the trial Court and order was passed which cannot be faulted with and objected. He further submitted that after sustained enquiry and follow up by the 2nd respondent, charge sheet was filed against 11 persons including the petitioners/A8, A9 & A11 herein.

11.As regards the petition filed by A8, he is the kingpin in this case, who prepared the spot inspection report by visiting the 2nd respondent's property. A8 being the Village Administrative Officer, is aware about the happenings in the village. He makes physical inspection on the subject property and goes around the place. He has fair good knowledge of the occupants and owners of the property. In this case, A8-VAO in a haste manner on the application of A7 gave a spot inspection report favouring A7, which was recommended by A9 to A10. When the application of A7 was pending, the Government passed G.O.Ms.No.210, dated 08.07.2011 to avoid delay in issuing patta. Taking advantage of the same, A7 filed the second application for patta, so that the patta can be issued by the Deputy Tahsildar. A8 had given another report directly to the Deputy Tahsildar A10, who issued the patta No.10986 in favour of A7. The issuance of patta No.10986 was challenged before the Revenue Divisional Officer, Ambattur, who by proceedings in No.1413/2016/A2, dated 17.02.2017 cancelled patta No.10986 in RTP.No.3823 of 2011 issued by A10 in favour of A11. Now, the original patta Nos.810, 811 is restored to the 2nd respondent's wife and his sister-in-law.

12.He further submitted that the contention of A9 has got some force, since A9 in office letter No.405 of 2011, dated 03.06.2011 recommended and forwarded the spot inspection report of A8 to Tahsildar Office as per G.O.Ms.No.305 and not to Deputy Tahsildar. When the file was pending, the Government passed another G.O.Ms.No.210, dated 08.07.2011 making the issuance of patta less cumbersome and authoring the Tahsildar and Deputy Tahsildar to issue patta. Thus, the cancellation of the 2nd respondent's patta and issuance of patta in favour of A7, was done based on the subsequent G.O.Ms.No.210 and on the second application of A7. As regards A11 is concerned, the learned counsel for the 2nd respondent fairly submitted that A11's contention can be considered, the entire transaction of sale consideration made through the bank to the account of A7. During investigation by the Directorate of Enforcement officials, the same was confirmed by the Bank Officials (LW19 to LW21) as well as the accused. A11 now filed an affidavit before the Hon'ble Division Bench of this Court in Crl.O.P.No. 5099 of 2018 that he will not make any claim over the subject property and handover the possession of the property to the 2nd respondent. During the pendency of the above petition, he handed over the possession of the property. Now, all the encumbrance in the revenue records erased and the patta in the name of the 2nd respondent's wife and sister-in-law restored and the possession of the property handed over. Now, the 2nd respondent has got no objection for quashing the proceedings as against A11, if this Court finds so.

13.The learned Additional Public Prosecutor appearing for the 1st respondent in all the cases submitted that the case was registered on the complaint of the 2nd respondent as stated above. On completion of investigation, charge sheet was filed and when the case was pending trial in C.C.No.5718 of 2010 before the learned XI Metropolitan Magistrate, Saidapet Chennai, it was transferred to the file of the trial Court and renumbered as C.C.No.66 of 2013. Thereafter, the 2nd respondent finding the involvement of the other persons, again gave a complaint to the 1st respondent Police on 27.02.2012, but no action was taken. Hence, the 2nd respondent filed a petition before this Court under Section 482 Cr.P.C., in Crl.O.P.No.32012 of 2013 seeking to register the complaint, dated 27.02.2012. This Court, by order, dated 05.08.2014 finding that the earlier complaint of the 2nd respondent, which was registered in Crime No.34 of 2009 and the present complaint, dated 27.02.2012 are similar and identical, directed the 2nd respondent to approach the concerned Magistrate and file appropriate petition for further investigation. As per order of this Court, dated 05.08.2014, the 2nd respondent filed a petition before the trial Court in Crl.M.P.No.599 of 2014 for further investigation. The trial Court, by order, dated 14.10.2014 directed the 1st respondent Police to conduct further investigation under Section 173(8) Cr.P.C. As per the order of the trial Court, the 1st respondent Police conducted further investigation and filed supplementary charge sheet arraying A7 to A11 as accused in C.C.No.66 of 2013, against which, the petitioners/A8, A9 & A11 have filed these Criminal Original Petitions.

14.The learned Additional Public Prosecutor filed status report and the relevant portion is extracted as follows:-

> *"8] I submit that during the pendency of trial proceedings, one Suruliandavar [A-7] had colluded with A-2 created a forged sale deed as if executed by Kamalakannan, who is the original owner of the above said properties in favour of A-7 vide doc.no.1427 of 1967 and inserted the said forged sale deed before the office of the Sub Registrar Joint-1, Saidapet. Based on the above forged*

sale deed, A-7 colluded with one Karthikeyan [A-8] who is the Village Administrative Officer, Valasaravakkam in connivance with the Revenue Inspector namely Saraswathi [A-9/ petitioner herein] and Deputy Tahsildar namely Mynavathi [A-10] transferred the defacto complainant's land in Patta No.810 & 811 in the name of the Suruliandavar [A-7] vide New Patta No.10986. Based on the illegal patta, and fake sale deed A-7 sold the above said properties to one Naidu Amrutesh Reddy [A-11] for sale amount of Rs.4,33,00,000/

9] I submit that during the course of pending trial, the defacto complainant/ 2nd respondent filed a direction petition before the hon'ble High court vide Crl.O.P.No 32012/2013 with prayer directing to the respondent police to register the complaint dated 27.02.2012 and the Hon'ble High court passed the direction directing the defacto-complainant / 2nd respondent to approach concerned Magistrate court for further investigation if warranted. Based on this order, the defacto-complainant filed a petition before the Learned Land Grabbing special Court-II Periyamet, Chennai for further investigation. The special court directed the Respondent of Police to further investigation U/s.173(8) Cr.P.C. in Crl.M.P.No.599 of 2014 dated 14.10.2014. Based on the order of the above said

Magistrate Court, the then Inspector of Police conducted further investigation of this case. After conducting investigation, It came to know that the property belonging to the defacto-complainant, A-1 & A-2 colluded with A-7 and created a fake sale deed in the name of A-7, when he was 6 years old and a minor, it shows that Devamani Devar purchased the said property from one Kamalakannan and inserted the fake sale deed vide Doc.No.1427 of 1967 dated 12.4.1967 with the connivance of the SRO officials in the SRO office record.

10] I submit that after inserted the fake sale deed, and got related parent document and EC from SRO, Saidapet and legal opinion have been forged and by enclosing the applied for Patta at Ambattur Taluk Office. After receiving the Patta transfer application, A-8 Karthikeyan, the then V.A.O.Valasaravakkam was colluded with A-1,A 2,&A-7 and inspected jointly the said property and created a file and stated in inspection report, the said that A-7 Suruliandavar is presently in possession of the 0.68 cent property and the holder of the Patta No.810 & 811, Mangalam and Alamelu has no right over the said property and further advocate gave a legal opinion for the same and thereby conspired with A-7 to transfer the name *in the UDR Patta, it has been wrongly entered in the name of A-7 knowingly committed crime.*

11]I submit that after creating the file by A-8 Karthikeyan, the then VAO. Valasaravakkam drafted Revenue Inspector's report in his own handwriting. Then Revenue Inspector namely Tmt.Saraswathi [A-9/ Petitioner] without verifying the file and records and assign in her office.Lr.No.405/2011 and forwarded the same to Thahsildar, Ambattur Taluk.

12]I submit that A-8 Karthikeyan, without verifying with concerned Assistant of the Ambattur Taluk office and the A-10 Mynavathy, the then Deputy Thahsildar of the Ambattur Taluk conspired with A-7 &A8 and knowingly recommended for issue of order for cancellation of patta held in the name of A-7 can be inferred in the File No.3823 of 2011 of Ambattur Taluk office.

In this regard, it is verified with officials of the Collector, Thiruvallur District with Patta transfer file and it came to know that for cancellation, transfer or change of name in patta issued under UDR, it comes under the power of District Revenue Officer vide அரசாணை (நிலை) எண்.385 வருவாய் (பொது-3) துறை நாள் 17.08.2004

and also explained proper procedure was not followed by the A-8,A-9 & A-10.

13] I submit that then VAO, Valasaravakkam [A-8] without following the procedure conspired with A-7 for acquiring illegal profit, issued Patta No. 10986 directed to him. Further after cancelling the patta in respect of the property belonging to Mangalam and Alamelu and subsequently with the help of A-8, A-9 & A-10, the patta changed in the name of A7. Thereafter, A-7, were executed sale deed in favour of All Naidu Amruesh Reddy for the sale amount of Rs.4,33,00,000/- and the said amount was shared between the accused.

14]I submit based on the above further investigation, I have included the accused persons [A-7 to A-11] in this case and after completion of investigation, on 15.11.2016, I have filed an amended charge sheet in C.C.No.66 of 2013 against the accused persons [A-1 to A-11] U/s.420, 465, 467, 468, 471 r/w.120(b) IPC before the Learned Special Court for Exclusive Trial of Land Grabbing Cases-II, Periamet, Chennai."

15.He further submitted that the revenue and registration authorities in collusion with A7 had tampered with the official records. Without properly conducting any enquiry, A8 had given a spot inspection report in favour of A7. Being the custodian of the revenue records, it is their duty to give fair and true report, on the other hand, A8 had given a report favoring A7 knowingly it is not true and correct particulars. The 2nd respondent made to run from pillar to post form the year 2009 to save and to reclaim the property. The Directorate of Enforcement have also taken proper action against the preparators of the offence. He strongly objected the contention put forth by A8, who is the kingpin before the entire episode. As regards A9 is concerned, the learned Additional Public Prosecutor fairly submitted her recommendation was not acted upon in this case and the patta was issued on the second application of A7, dated 27.09.2011. With regard to A11, he submitted that he is a innocent purchaser and now, he realized the mistake and handed over the possession of the property to the 2nd respondent and further, he filed an affidavit not to make any claim over the subject property. In this case, A11 is an innocent purchaser and, has become victim of circumstances and he lost to the tune of Rs.4,33,00,000/-. Hence, he prayed for appropriate direction of this Court.

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

17.It is seen that originally the subject property was purchased by the 2nd respondent's wife and his sister-in-law, vide document Nos.2396 & 2395 of 1973 from one Kamalakannan in patta Nos.810 & 811. Thereafter, the preparators of crime viz., A1 to A6 have attempted to usurp the subject property from the original land owners. Initially, A2 claiming right over the subject property, had let out the subject property on lease in favour of A1 on 24.11.2007 to run a timber business in the name of Maruthi Agency. Likewise, A3 created unregistered power of attorney with forged legal heir certificate of one Rajamanickam and executed the same in favour of A4 vide document No.1601 of 1957. On the strength of the same, A3 attempted to get the electricity connection for the subject property in his name and also paid necessary charges. On the objection made by the 2nd respondent, the application for electricity connection sought by A3 was cancelled. It is also seen that A5 created forged document claiming that when the 2nd respondent's wife and his sister-in-law were residing in Australia, they executed a power of attorney in favour of him vide document Nos.381 & 382 of 2008, registered at Sub Registrar Office, Coimbatore. Using the forged power of attorney in document Nos.381 & 382 of 2008, two sale agreements in favour of A6 have been registered vide document Nos.3139 & 3140 of 2008 registered at Sub Registrar Office, Virugambakkam. In fact, the 2nd respondent's sister-in-law died much earlier in the year 2003.

18.The 2nd respondent lodged a complaint before the 1st respondent Police and the same was registered in Crime No.34 of 2009 on 28.01.2009. On completion of investigation, charge sheet was filed against A1 to A6, which was taken on file as C.C.No.5718 of 2010 by the learned XI Metropolitan Magistrate, Saidapet, Chennai on 16.04.2010. For administrative reason, the case was transferred to the file of the Special Metropolitan Magistrate Court No.II (Land Grabbing Cases), Periyamet, Chennai/trial Court and renumbered as C.C.No.66 of 2013. Thereafter, the second episode of forgery in this case commenced, wherein A7 claiming that when he was minor at the age of six years, his father late Davamani Devar purchased the property from Kamalakannan vide document No.1427 of 1967 and hence, he applied for patta for the subject property in Ambattur Taluk Office, which was forwarded to A8-VAO. A8 prepared the spot inspection report on the subject property favouring A7 and sent the same to A9-Revenue Inspector. Following the same, A9 gave concurring report and forwarded the same to Ambattur Taluk Office by office letter No.405 of 2011, dated 03.06.2011 as per G.O.Ms.No.385 of 2004.

19.The procedure adopted in issuing patta as per G.O.Ms.No.385 of 2004, dated 17.08.2004 is that the Village Administrative Officer on scrutiny of the records with him and and on physical inspection of the property forward the report to the Revenue Inspector. The report to be verified by the Revenue Inspector and forward it to the Tahsildar Office. In Tahsildar Office, the Scrutiny Assistant to put file to the Deputy Tahsildar, the Deputy Tahsildar to verify the same and put up a note to Tahsildar. The Tahsildar after verification of the documents, to make a physical inspection of the property and forward the report to the Revenue Divisional Officer. Again, the Revenue Divisional Officer to verify the documents, conduct physical verification and send a report to the District Revenue Officer. The District Revenue Officer to conduct the physical verification, enquire the person, who seeks patta and grant patta, if there is no other claim. Since the above procedure adopted in G.O.Ms.No.385 of 2004 was cumbersome and took considerable time in issuing patta, the Government passed G.O.Ms.No.210 of 2011, dated 08.07.2011, wherein the process of issuing patta was simplified. The procedure adopted as per G.O.Ms.No.210 of 2011 is that the report of the Village Administrative Officer to be forwarded to the Revenue Inspector and the Revenue Inspector to submit the same to the Tahsildar Office, where the Scrutiny Assistant to verify the document and put up to the Deputy Tahsildar. Thereafter, the Tahsildar or Deputy Tahsildar can issue patta. In this case, A9 gave concurring report to A10 as per G.O.Ms.No.385 of 2004. When the report was pending, G.O.Ms.No.210 of 2011 was passed simplifying the procedure in issuing patta. In this case, taking advantage of G.O.Ms.No.210, dated 08.07.2011, second application for transfer of patta was submitted by A7 on 27.09.2011 to Ambattur Taluk Office and A8-VAO sent his report on 10.10.2011. This report was directly sent by A8 to A10. On receipt of the same, A10-Regional

Deputy Tahsildar issued patta No.10986 in favour of A7 in R.P.T.No.3823 of 2011, dated 31.10.2011.

20.The 2nd respondent on coming to know about the second eipsode, lodged a complaint on 27.02.2012 to the 1st respondent Police, but the Police failed to act on it. Hence, the 2nd respondent filed Crl.O.P.No.32012 of 2013 before this Court seeking direction for registering the complaint. This Court, by order, dated 05.08.2014 finding that the complaint, dated 27.02.2012 is identical in respect of the same subject property in Crime No.34 of 2009, wherein final report already filed in C.C.No.5718 of 2010, directed the 2nd respondent to approach the concerned Magistrate and to file appropriate petition for further investigation. Thereafter, the 2nd respondent filed a petition in Crl.M.P.No.599 of 2014 before the trial Court for further investigation. The trial Court, by order, dated 14.10.2014 directed the 1st respondent Police to conduct further investigation under Section 173(8) of Cr.P.C. As per the order of the trial Court, the 1st respondent Police took up further investigation, filed supplementary report on 01.11.2016 arraying five more persons as accused Nos.A7 to A11 along with earlier accused

A1 to A6. The accused attempted to blow out of proportion, on the order passed by the trial Court, dated 14.10.2014 in Crl.M.P.No.599 of 2014 wherein by oversight a typographical error crept in. In that order, instead of further investigation, reinvestigation has been wrongly typed, which is a typographical error as could be seen from the records.

21.As regards the case against the petitioner/A9 in Crl.O.P.No.14855 of 2017 is concerned, it is seen that A9 gave a report, dated 03.06.2011 vide office letter No.405 of 2011. This report is in concurrence to the spot inspection report sent by A8. It is known fact that the Village Administrative Officer holds entire revenue records of the village, such as village account, chitta, Adangal, FMB sketch and other records. Correspondingly, similar registers and documents are available in the concerned Tahsildar Office. Hence, the application for issuing patta forwarded to Village Administrative Officer to verify the same with the village account and other registers maintained by him, to conduct physical inspection on the property concerned and submit a report. In this case, A9 concurred the spot inspection report of A8 and forwarded the same to the Ambattur Taluk Office vide office letter

No.405 of 2011, dated 03.06.2011 as per G.O.Ms.No.385 of 2004. Thereafter, the said report ought to have been further processed by the concerned Tahsildar to the Revenue Divisional Officer and finally, the District Revenue Officer, who is the authority concerned, to cancel or issue fresh patta. When the report of A9 was pending, G.O.Ms.No.210 of 2011, dated 08.07.2011 was passed by the Government. Taking advantage of the same, A7 submitted second application for patta transfer on 27.09.2011, which was forwarded to A8, who on receipt of the same, gave a report on 10.10.2011 to A10 directly. A10 issued patta No.10986 in favour of A7 in R.P.T.No.3823 of 2011, dated 31.10.2011. Thus, the petitioner/A9 had no role in issuance of patta No.10986 to A7. At most, it is dereliction of duty, A9 can be a good witness in this case. It is seen that the report of A9 in U.Mu.No.405, dated 03.06.2011 was not acted upon while issuing patta in favour of A7 and the patta was granted in favour of A7 only on the report of A8-VAO, which is based on the second application of A7, dated 27.09.2011.

22.In this case, the revenue officials examined during investigation are LW17, LW18, LW23 to LW27, who have stated about the procedure followed and the role of A8 to A10 in this case. It is confirmed from their evidence that the report of A9 in office letter No.405 of 2011, dated 03.06.2011 was not acted upon for issuing patta in favour of A7. It was on the second application, dated 27.09.2011 submitted by A7. Pursuant to G.O.Ms.No.210 of 2011, A8-VAO gave a report on 10.10.2011 and the patta No.10986 was issued in favour of A7, which is confirmed by LW26, the Scrutiny Assistant of Ambattur Taluk Office. On submission of patta file, LW26 gave statement in favour of A9 and he confirmed that the report of A9 vide office letter No.405 of 2011 was not acted upon. None of the witnesses from the Revenue and Registration Department gave any adverse statement against A9. Added to it, it is seen that A9 was proceeded under Section 17(b) of the Tamil Nadu Civil Services (Discipline and Appeal) Rules. The Special Deputy Collector (Social Security Scheme), Thiruvallur was appointed as enquiry officer. After completion of enquiry, the Enquiry Officer in proceedings in No.13674/2016/A3, dated 17.03.2020 exonerated A9 from all the charges framed against A9. The charges faced by A9 both in departmental enquiry and in the above criminal case are identical.

23.The Hon'ble Apex Court in the case of "***Ashoo Surendranth Tewari Versus Deputy Superintendent of Police, EOW, CBI and another reported in (2020) 9 SCC 636***" held that in a case of exoneration, however, on merits where the allegation is found to be not sustainable at all and the person held innocent, criminal prosecution on the same set of facts and circumstances, cannot be allowed to continue. The relevant portion of decision is extracted as follows:-

> ***8.****A number of judgments have held that the standard of proof in a departmental proceeding, being based on preponderance of probability is somewhat lower than the standard of proof in a criminal proceeding where the case has to be proved beyond reasonable doubt. In P.S. Rajya v. State of Bihar [P.S. Rajya v. State of Bihar, (1996) 9 SCC 1 : 1996 SCC (Cri) 897] , the question before the Court was posed as follows: (SCC pp. 2-3, para 3)*
>
> > *"3. The short question that arises for our consideration in this appeal is whether the respondent is justified in pursuing the prosecution against the appellant under Section 5(2) read with Section 5(1)(e) of the Prevention of Corruption Act, 1947 notwithstanding the fact that on an identical charge the appellant was exonerated in the departmental proceedings in the light of a report submitted by the Central Vigilance Commission and concurred by the Union Public Service Commission."*

9. *This Court then went on to state: (P.S. Rajya case [P.S. Rajya v. State of Bihar, (1996) 9 SCC 1 : 1996 SCC (Cri) 897] , SCC p. 5, para 17)*

> *"17. At the outset we may point out that the learned counsel for the respondent could not but accept the position that the standard of proof required to establish the guilt in a criminal case is far higher than the standard of proof required to establish the guilt in the departmental proceedings. He also accepted that in the present case, the charge in the departmental proceedings and in the criminal proceedings is one and the same. He did not dispute the findings rendered in the departmental proceedings and the ultimate result of it."*

24.In the light of the above discussion and the facts and circumstances of the case, this Court finds that A9 was exonerated from the charges framed against her in the departmental proceedings. While this being so, no criminal prosecution on the same set of facts and circumstances faced in departmental proceedings, cannot be allowed to continue. The patta was granted in favour of A7 only based on the report of A8-VAO, which was processed on the second application of A7, dated 27.09.2011.

25.Hence, this Court finds that continuation of trial in C.C.No.66 of 2013 against A9 would amount to abuse of process of law. Accordingly, the proceedings in C.C.No.66 of 2013, on the file of the Special Metropolitan Magistrate Court No.II (Land Grabbing Cases), Periyamet, Chennai/trial Court is quashed against A9 and Crl.O.P.No.14855 of 2017 is allowed.

26.As regards the case against the petitioner/A11 in Crl.O.P.No.10307 of 2017 is concerned, A11 purchased the property from A7 after due diligence by scrutinizing all the title documents by engaging an Advocate. On completion of same, A11 entered into the sale agreement on 25.04.2011 finding that there was some encroachment in the subject property, the sale consideration was fixed for Rs.4,33,00,000/-. A11 through A7, contacted A1 and A2 and made some payments to clear the encroachment on the subject property. The sale consideration was paid in instalments through bank, which is not in dispute. In this case, A7 in a deceitful manner, created forged sale deed in document No.1427 of 1967, dated 12.04.1967 as though the subject property was purchased by his father Davamani Devar from one

Kamalakannan. Following the same, A7 inserted the said document in the concerned Register of the Sub Registrar Office, Saidapet. Using the same, A7 obtained patta No.10986 in collusion with the revenue officials. Believing all these documents to be true, A11 purchased the subject property vide document No.6266 of 2011, dated 10.11.2011 for sale consideration of Rs.4,33,00,000/-.

27.In this case, A11 is a business man with resources and for logistics purpose, the subject property was purchased by him. He is a man of means, having a turn over of Rs.400 Crores, under whom four thousand employees are employed. While this being so, he has no reason and necessity to purchase encumbered and disputed property. Had he known about the forgery of documents, he would not have purchased the subject property from A7. Initially, the agreement for sale was entered between A7 and A11 and thereafter, periodical payments made by A11 to A7 through the bank. The entire transaction made through Andhra Bank, Esplande Branch, Chennai. LW19, the Assistant General Manager of Andhar Bank, Esplande Branch, Chennai confirmed the same and furnished particulars of the payments made from the account of A11 to the account of A7. LW20, the Manager of the Indian Overseas Bank, Alandur Branch confirmed A7 maintained account in his branch and the transactions in A7's account, he also confirmed A11 made several credits to the account of A7. LW21, the Deputy Manager of ICICI Bank, Kilpauk Branch stated that A1 maintained account in his bank and he confirmed the payments made to A1 from the account of A11. Believing the words of A7, A11 purchased the subject property vide document No.6266 of 2011, dated 10.11.2011 for sale consideration of Rs.4,33,00,000/-. Apart from facing the above criminal case, A11 had to face prosecution under the Prevention of Money Laundering Act, 2002) in C.C.No.14 of 2017, before the learned Principal Sessions Judge, Chennai (Special Court Constituted under Section 43(1) of the Prevention of Money Laundering Act, 2002). During enquiry, A11 was enquired by the officials of the Directorate of Enforcement, at that time, A11 submitted his explanation and produced documents in his support. As against the proceedings in C.C.No.14 of 2017, Quash Petition was filed by A11 in Crl.O.PNo.5099 of 2018. The Hon'ble Division Bench of this Court, by order, dated 14.03.2022 finding that A11 is made as victim of circumstances, who has been deceived and cheated by A7 and also considering the affidavit of undertaking given by A11 that he will not make any claim over the subject property and ready to handover the possession to the 2nd respondent, quashed the proceedings against A11. The relevant portion of the order, dated 14.03.2022 of the Hon'ble Division Bench is extracted hereunder:-

> *"7.Mr.V.Karthic, learned Senior Counsel, further submitted that Naidu Amrutesh Reddy is ready and willing to give up all claims to the subject land and is also ready to put the original owners in possession. Naidu Amrutesh Reddy has sworn to an affidavit dated 14.03.2022, which is taken on record and in paragraph Nos.17 to 21, it is stated as follows:*
>
> > *"17. I state that since it is now made abundantly clear by various proceedings that my vendor namely Suruli Andavar had no title whatsoever to the Subject Property, I am voluntarily giving up all rights, claims over the Subject Property and I am also handing over the physical possession of the property to the Original Landowners.*
> >
> > *18. I State than I will not make any claim with respect to title or any monetary claims presently or in the future against the Subject Property situate at Door No.20, Sri Devikuppam Main Road, No.75, Valasaravakkam Village, Ambattur Taluk, Thiruvallur District in Survey Nos.47/1 and 47/2 against the Original Landowners.*

> *19. I state that I also consent to cancel the bogus sale deed executed by Suruli Andavar in my favour dated 10.11.2011 registered as Document No.6266/2011 on the file of the SRO, Virugambakkam.*
>
> *20. I state that I have already instructed my counsel to withdraw the appeal pending before the Appellate Authority and undertake to withdraw the appeal on the next date of hearing.*
>
> *21. I state that I am ready to cooperate with the authorities in any manner towards facilitation of the smooth handing over of the property in favour of the Original Landowners, to bring to book the accused persons and I am ready and willing to depose as a witness during trial if called by the respondent herein."”*

9.A complete reading of the complaint discloses as to how various persons had indulged in attempting to grab the subject land belonging to Mangalam and Alamelu sisters at various stages and the same has been set out in detail. Coming to the money trail, in paragraph No.8.1 of the impugned complaint, it is stated as follows:

> *'8.1. In terms of the Sale Deed dated 10.11.2011 registered as Document No.6266 of 2011 of SRO, Virugambakkam executed by Shri T.Suruli Andavar for the conveyance of the aforesaid land of extent 68 cents in Survey No.47/1 and 47/2 of Valasarawakkam Village to Shri Naidu Amrutesh Reddy the total sale consideration of Rs.4,33,00,000/- was pronounced to have been disbursed by the buyer as detailed hereunder:*

S. No.	*Receipient*	*Mode & Date*	*Amount*
1	T.Suruli Andavar	Cheque No.000010 dated 4.3.2011 of Bank of Baroda	1,00,000
2	T.Suruli Andavar	DD No.368652 dated 23.4.201 of Andhra Bank, Esplande Branch, Chennai	9,00,000
3	T.Suruli Andavar	DD No.368650 dated 23.04.2011 of AB Explande Br.	51,00,000
4	K.G.Ramesh S/o.G.Ganesan	DD No.368651 dated 23.04.2011 of AB. Esplande Br.	25,00,000
5	R.S.Narayanan, S/o.K.S.Raghunathan	DD No.368653 dated 23.04.2011 of AB, Esplande Br.	15,00,000
6	T.Suruli Andavar	Cheque No.410993 dated 13.05.2011 of AB, Esplande Br.	50,00,000
7	T.Suruli Andavar	Cheque No.735283 dated 16.08.2011 of AB, Esplande Br.	50,00,000
8	T.Suruli Andavar	Cheque No.737633 dated 13.10.2011 of AB, Esplande Br.	50,00,000
9	T.Suruli Andavar	DD No.511138, dated 09.11.2011 of AB, Esplande Dr.	50,00,000
10	T.Suruli Andavar	DD No.511138, dated 09.11.2011 of AB, Esplande Br.	50,00,000
11	T.Suruli Andavar	DD No.511139, dated 09.11.2011 of AB, Esplande Br.	50,00,000
12	T.Suruli Andavar	DD No.511136, dated 09.11.2011 of AB, Esplande Br.	32,00,000

28.On 14.03.2022, A11 and the 2nd respondent appeared before this Court, A11 handed over the key of the subject property to the 2nd respondent and the same was received by him. The 2nd respondent filed an affidavit before this Court having no objection to quash the above case against A11, the relevant portion of the affidavit is extracted hereunder:-

> "*5. I state that subsequently on 14.03.2022 when the above case was listed before this Hon'ble Court, the Key of the compound of my above stated land was handed over to me. Thereafter, on 24.03.2022, the physical possession of my land namely, the land to an extent of 66 2/5 cents in survey Nos.47/1 an 47/2, Valasaravakkam Village, Ambattur Taluk, Thiruvallur District has been handed over to me.*
>
> *6. I state that therefore, I do not have any objection to quash the above case in C.C.No.66 of 2013 as against A11 is concerned.*"

29.Now, A11 handed over the subject property to the 2nd respondent and the 2nd respondent affirmed the same. The encumbrance created to the subject property using the forged document have been cancelled and cleared vide proceedings in Na.Ka.No.1413/2016/A2, dated 17.02.2017, wherein Revenue Divisional Officer, Ambattur had cancelled the patta issued in favour of A7 vide in R.PT.No.3823 of 2011 and the subsequent patta issued thereafter. Hence, the patta Nos.810 and

811 issued in favour of the 2nd respondent's wife and his sister-in-law is restored.

30.In view of the above, the continuation of proceedings would amount to abuse of process of Court and this Court quashes the proceedings against A11 in C.C.No.66 of 2013 on the file of the Special Metropolitan Magistrate Court No.II (Land Grabbing Cases), Periyamet, Chennai/trial Court. Accordingly, Crl.O.P.No.10307 of 2017 filed by the petitioner/A11 is allowed.

31.As regards A8 is concerned, he is a Village Administrative officer (field officer), he plays a pivotal role in issuance of patta and other certificates to the persons approaching the revenue officials. The Village Administrative Officer holds all primary revenue records of the village viz., village account, which gives the entire history of the land and its owner, nature of property/classification and its usage. The Village Administrative Officer is assigned a village, he has to have a constant vigil over the entire village, its development, encroachment, issuance of certificate and other factors. Normally the application for patta transfer used to submit either directly to the Village Administrative Officer directly or to the concerned Tahsildar Office. The Village Administrative Officer conducts field inspection on the property, verify the documents, conduct enquiry and forward the report through the official channel viz., the Revenue Inspector, from there, to the other officials of the Revenue Department as per the nature of application required. Hence, A8, who was the Village Administrative Officer, cannot plead ignorance stating that he had only forwarded the report as per the requirement of his superior and the same cannot be countenanced. Likewise, A8 completing unblemished service of 30 years, is not a factor to be considered now in this case. Had the Village Administrative Officer been vigilant, this kind of offence cannot take place. In this case, the subject property is a prime property. All the accused, in a concerted manner, have encroached the same by creating encumbrance in connivance with revenue officials. Thus, the accused were able to create forged documents in support with gullible government servants.

32.This case is a standing example how the persons, who are entrusted with the responsibility to safeguard the properties and rights of every person, turned to be preparators of crime. Nowadays, this has become common, since the offenders are embolden to commit such type of offences due to lethargic response of Law Enforcing Authorities and the delay in progress of trial. The delay in getting justice by the affected party in approaching the Law Enforcing Authorities and Court tires and dissuade them to continue with the case, instead they go for some settlement with the offenders or seek recourse from politician and muscle men. Thus, the delay in whatever form has become the breeding ground for such organized crime being committed. In this case, the 2nd respondent tirelessly followed the case from the year 2009 approaching the Police and knocking the doors of the Court and finally, he is able to reclaim and retrieve the property. It is for the State to take appropriate steps, so that the preparators of such crime are dealt with iron hand.

33.In the result, Crl.O.P.No.10494 of 2017 filed by the petitioner/A8 stands dismissed.

34.Finding that there are only twenty seven witnesses listed in this case and the case is of the year 2009, the trial Court is directed to proceed with the trial on a day to day basis and complete same, within a period of six months, from the date of receipt of a copy of this order.

35.In the event of any accused attempting to delay and protract trial by adopting any dubious method, the trial Court is free to take coercive action, if required to keep them under custody and complete the trial. The connected Criminal Miscellaneous Petitions are closed.

25.04.2022

Speaking order/Non-speaking order
Index: Yes/No
Internet: Yes/No

vv2

To

1.The Special Metropolitan Magistrate Court No.II
(Land Grabbing Cases), Periyamet, Chennai.

2.The Inspector of Police,
Central Crime Branch (XV-Team),
Chennai.

3.The Public Prosecutor,
High Court, Madras.

M.NIRMAL KUMAR, J.

vv2

PRE-DELIVERY ORDERS IN
Crl.O.P.Nos.10307, 10494 & 14855 of 2017

25.04.2022