



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.11.2021

CORAM:

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

CRL.O.P.NO.7249 OF 2017

AND

CRL.M.P.NOS.5235 & 5236 OF 2017

R.Mani

...Petitioner/Accused

Vs

1. The State represented by
The Inspector of Police,
Central Crime Branch, Team - 18,
X Crime No.82 of 2014,
Chennai.

...1st Respondent/Complainant

2. V.S.A.Babu

...2nd Respondent/Defacto Complainant

PRAYER: Criminal Original Petition filed under Section 482 of Criminal Procedure Code, to call for the records in C.C.No.1 of 2015 on the file of the learned Metropolitan Magistrate - Special Court for Land Grabbing Cases - II, Chennai - 3 and quash the proceedings against the petitioner.

For petitioner : Mr.A.M.Rahamath Ali

For Respondents: R1 - Mr.S.Vinoth Kumar,
Government Advocate
[Criminal Side]

R2 - No appearance

O R D E R

This petition has been filed to quash the charge sheet filed in C.C.No.1 of 2015 on the file of the Metropolitan Magistrate - Special Court for Land Grabbing Cases - II, Chennai - 3 for the offences under Sections 420, 467, 468 and 471 of I.P.C. filed against the petitioner.



2. The crux of the charge of the prosecution is that the suit property to an extent of 1666 Sq.ft was originally belonged to one Veeraragava Iyengar. After his death, his son Sampath became the owner of the property. He has sold the property to Jainilabudeen on 17.03.1972. Thereafter, Smt.Rajam has filed a suit in O.S.No.2891 of 1973 for specific performance of agreement as against Jainulabudeen and others. The said suit was decreed in her favour. The appeal filed against the decree and judgment is also dismissed.

3. When the matters stood thus, the said Rajam has sold the property to one Annamalai Chetty in the year 1982. The said Annamalai Chetty, in turn, sold the property to one Venkatesan in the year 1994. The said Venkatesan has sold the property to the present petitioner in the year 2000. In the mean while, the legal heirs of P.K.M.Jainulabudeen filed a suit in O.S.No.4871 of 2002 before the City Civil Court of Chennai seeking declaration to declare the sale in favour of Rajam as null and void. In the above suit, the present petitioner was not made as a party. It appears that the above suit has been decreed ex-parte. Thereafter, the present petitioner was implicated in a criminal case for the various charges as indicated above.

4. It is also brought to the notice of this Court that the present petitioner has filed a suit in O.S.No.5851 of 2007 before the III Assistant City Civil Court to declare the decree obtained in O.S.No.4871 of 2002 as null and void. After analyzing of entire factual aspects and documents, suit was decreed and the decree and judgment in O.S.No.4871 of 2002 were set aside. In the above background, the final report is sought to be quashed.

5. Heard both sides. A perusal of the documents clearly indicates that this case is nothing but mere abuse of process of law. The present petitioner has purchased the property in the year 2000. He has been implicated mainly on the ground that the decree stood in favour of Rajam was set aside by an ex-parte decree in the suit in O.S.No.4871 of 2002. In the above suit, the present petitioner has not been made a party. Thereafter, the petitioner has filed a suit in O.S.No.5851 of 2007 seeking to declare that the decree passed in O.S.No.4871 of 2002 as null and void.

6. After full contest, the Court has decreed the above suit and set aside the ex-parte decree and declared that the judgment passed in O.S.No.4871 of 2002 is null and void. This is the factual scenario. The allegation of cheating and creation of false documents has been pressed into service mainly on the ground of ex-parte decree stood in the name of legal heirs of



the said Jainulabudeen, who is said to have been real owner of the property.

7. It is relevant to note that as against Jainulabudeen, Rajam has already filed a suit for specific performance and decree was obtained and reached finality in the appeal. Thereafter, the above decree was sought to be set aside through O.S.No.4871 of 2002 which was decreed in ex-parte which was also later declared as null and void in O.S.No.5851 of 2007. From the civil proceedings it could be easily concluded that the defacto complainant is not the owner of the property. At any event, the property has been purchased by the present petitioner in the year 2000 prior to the suit filed by the legal heirs of the said Jainulabudeen. Further, if the entire allegations have been taken as a face value, the same do not constitute any offence under Sections 420, 467 and 471 of I.P.C. In such view of the matter, continuation of prosecution is nothing but mere abuse of process of law.

8. Accordingly, the Criminal Original Petition is allowed and the final report filed in C.C.No.1 of 2015 on the file of the learned Metropolitan Magistrate - Special Court for Land Grabbing Cases - II, Chennai - 3 has been quashed. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CS-VIII)

//True Copy//

Sub Assistant Registrar

vrc / kbs

To

1. The Metropolitan Magistrate,
Special Court for Land Grabbing Cases - II,
Chennai - 3.
2. The Inspector of Police,
Central Crime Branch, Team - 18,
Chennai.
3. The Public Prosecutor,
High Court, Madras.

CrI.O.P.No.7249 of 2017 and
CrI.M.P.Nos.5235 & 5236 of 2017

AK-II(CO)
RLP(08/12/2021)