IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 02.11.2021

PRONOUNCED ON : 25.11.2021

CORAM

THE HONOURABLE MR.JUSTICE KRISHNAN RAMASAMY

CRL.OP.NO.4265 OF 2017
AND
CRL.MP.NO.3200 OF 2017

G.Vani ... Petitioner

.Vs.

1. The State represented by
   The Inspector of Police,
   District Crime Branch,
   Tiruvallur.
   (Crime No.25 of 2016)

2. V.R.Natarajan ... Respondents
   (Impleaded the second respondent as per the order of this Court dated 06.04.2017 in Crl.M.P.No.3659 of 2017 in Crl.O.P.No.4265 of 2017)

PRAYER:- Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, praying to quash the impugned F.I.R. dated 19.08.2016 on the file of the respondent Police as against this petitioner as illegal.

For Petitioner : Mr.S.Nambi Arooran

For R1 : Mr.L.Baskaran
Government Advocate

For R2 : No Appearance

ORDER

This Criminal Original Petition has been filed, seeking to quash the F.I.R dated 19.08.2016, registered in Crime No.25 of 2016, on the file of the first respondent Police.

2. The case of the prosecution is that the petitioner/A3, who served as the Sub-Registrar, Gummidipoondi, registered a document based on a forged sale deed, presented by the accused 1 & 2, with respect to the property belonging to the defacto complainant, situated in Survey No.112/5 measuring 2.03 cents in Madurapanpakkam Village, Kilmadhurampedu, Gummidipoondi Taluk. The said forged sale deed was presented to the petitioner on 16.12.2015 for registration. The registration was done by the petitioner on extraneous consideration without examining the parent document, patta and the original owner of the property. Based on the complaint lodged by the second respondent/defacto complainant, on 19.08.2016, FIR was registered against the petitioner and other accused in Crime No.25 of 2016 for the offence under Sections 419, 420, 465, 468 and 491 IPC., by the first respondent Police.

3. Challenging the F.I.R, the present petition has been filed by the petitioner.

4. The learned counsel for the petitioner referred to a Circular dated 09.12.2015, whereby, the petitioner was deputed for issuance of fresh certificate, for those who lost their original documents during the floods. The deputation period was from 14.12.2015 to 27.12.2015. Therefore, the petitioner was also deputed for special duty at the time of registration of the alleged document and that she did not serve as the Sub-Registrar at Gummidipundi Sub-Registrar Office. Therefore, the learned counsel contended that the FIR was registered wrongly against the petitioner and the same is liable to be quashed.

5. Per contra, the learned Government Advocate appearing for the first respondent submitted that at present, the genuinity of the Circular dated 09.12.2015 cited on behalf of the petitioner, was not known. Even assuming that the Circular was issued and the petitioner was on deputation from 14.12.2015 to 27.12.2015, it is not in dispute that, the petitioner was in charge of the Gummidipoondi Sub-Registrar Office on the date of presentation of the alleged document and ultimately, it was the petitioner who registered and released the document. The said fact was also admitted by the petitioner.

6. Further, the learned Government Advocate contended that as per Section 34 of the Tamilnadu Registration Act, 1908, before effecting the registration of a document, the Sub-Registrar ought to have conducted an enquiry about the identity of the person, who executed the sale deed. Here, no such enquiry was done and the identity of person was not verified properly. Of course, the Sub-Registrar does not have any power to decide and determine the title of the property, but, atleast he can very well verify the identity of the person at the time of the

registration and releasing the document, which was not done by the petitioner. Therefore, based on the complaint lodged by the second respondent, a case was registered in Crime No.25 of 2016 and the same is under investigation. Due to the pendency of the present Criminal Original Petition, first respondent is not in a position to proceed with the case. Further, if the petitioner wants to agitate anything as regards his deputation etc., all those points cannot be decided by this Court and the same can only be decided during the course of trial. Hence, he prayed for dismissal of the present petition. However, he fairly submitted that liberty may be granted to the petitioner to raise all the points before the Court below.

7. Heard the learned counsel for the petitioner as well as the learned Government Advocate for the first respondent and perused the materials available on record.

8. A perusal of the complaint would show that the second respondent lodged a complaint before the first respondent Police alleging that on 16.12.2015, the petitioner/A3 joining with other two persons/A1 & A2, registered a document in respect of a property which was executed based upon the forged sale deed in favour of the second accused. Based upon the said complaint, an FIR in Crime No.25 of 2016 was registered against the petitioner and two other accused.

9. A perusal of the alleged sale deed said to have been executed on 16.12.2015, would show that one R.Natarajan/A1, was the vendor and M.Rajendren/A2 was the purchaser. The said sale deed contains stamp papers with different dates. The first page shows that it was a Rs.20/- stamp paper purchased on 14.03.2016 and the remaining stamp papers were shown as purchased on 16.12.2015. Despite this discrepancy, the sale deed was registered and released by the petitioner in respect of property situated at Survey Nos. old No.112 and new No.112/5, to the extent of 2.03 cents.

10. The schedule of property mentioned in the sale deed, which was said to have been executed on 16.12.2015 and the schedule of property mentioned in the sale deed dated 04.12.1995 are one and the same. In the sale deed executed on 04.12.1995, the purchaser of the property was mentioned as V.R.Natarajan, S/o.N.Rangasamy Naiyachar, residing at No.78, Verkadu Village, Gummidipundi Taluk, Chengalpate District, whereas, in the sale deed executed on 16.12.2015, the vendor's name was mentioned as R.Natarajan, S/o.Rangarajan, 1st Street, Gandhi Nagar Old Vannarapettai, Chennai 600 021. Therefore, it is very clear that V.R.Natarajan and R.Natarajan, are not one and the same person. However, without verifying these basic discrepancies, the petitioner/Sub Registrar has proceeded with the registration of

the document and later, he released the document.

11. Therefore, the second respondent has lodged the complaint alleging that the petitioner has failed to verify the original document and not properly identified the vendor of the subject property. Of course, this Court as well as the Hon'ble Apex Court, in catena of cases, have held that the Sub-Registrar cannot conduct a roving enquiry about the title of the person with regard to the property which is being sold by way of sale deed. But, in terms of Section 34 (3) of the Tamilnadu Registration Act 1908, the Sub-Registrar can,

(a) enquire whether or not such document was executed by the person by whom it purports to have been executed;

(b) satisfy himself as to the identity of the persons appearing before him and alleging that they have executed the document; and

(c) in the case of any person appearing as a representative, assign or agent, satisfy himself of the right of such person so to appear.

12. A perusal of the above, it is clear that as per Clause (b), it is incumbent upon the Sub Registrar to get himself satisfied as to the identity of the persons appearing before him and alleging that they have executed the document. This would mean that it is the duty of the Sub-Registrar to get himself satisfied as to the identity of the person appears before him who executed the document. The Sub-Registrar can verify the identify of the persons through their signatures in their identity cards produced before him and on comparison of their signatures in the parent document, etc. Further, it is also the duty of the Sub Registrar to verify the documents which were presented for registration vis-a-vis the subject property which was sought to be registered. In the Sub-Registrar Office, the parent document would be available and by verifying the details and signatures of the erstwhile vendor and purchaser, the persons' identity can be verified.

13. As stated above, the copy of the parent document will be available in the Sub-Registrar Office and when the document was presented before Sub-Registrar for registration, the same has to be verified through the parent sale deed. If the Sub-Registrar failed to identify the persons who executed the document presented for registration as done in the present case, no doubt the concerned Sub-Registrar is held liable to be prosecuted.

14. Coming to the present case, the plea of the petitioner

is that, during the relevant period, she was on deputation for special duty. However, a perusal of the sale deed dated 16.12.2015, it appears that she has signed the sale deed and released the same vide document No.5003 of 2015. The petitioner mainly contended that she has only received the deficit stamp duty and all the other process of registering the alleged document was done by the then Sub-Registrar. It is pertinent to note that on 16.12.2015 when the document was presented even for the purpose of deficit stamp duty, the petitioner, being the Sub Registrar, can very well scrutiny the document before releasing it as regards the identity of the parties who executed the document by way of comparison with the parent document available in the Office. The question that arises is, as to how the enquiry should be conducted by the Sub-Registrar in terms of Section 34(3) of the Act as regards the identity of the persons appearing before him who alleged that they have executed the document.

15. As already discussed, the Sub-Registrar has to look into the parent documents available with his Office and by way of comparison, he can identify the real parties to the execution of the sale deed that has been presented for registration. In the previous sale deed i.e the parent document, the details of the the executor of the sale deed and the purchaser of the property including their signatures, address and details of PAN card etc., were available. Therefore, when a document is presented for registration, it is the duty of the Sub Registrar to conduct thorough enquiry as contemplated under Section 34(3) of the Act and satisfy himself about the identity of the person, who are the parties to the execution of the deed and presented the same before him for registration.

16. Thus, the question that arises in the present case is, whether such enquiry was conducted by the Sub-Registrar as regards satisfying himself about the identity of the persons appeared before him alleging that they have executed the document, is the subject matter of trial. The defence of the petitioner is that she is not responsible for registering the document as she had only released the document after verifying the deficit stamp duty. This aspect also cannot be decided at the threshold in this petition and it can be decided only after a full fledged trial. It is, prima facie, appeared that the petitioner has signed the document and released the same vide document No.5003/2015.

17. In the present case, based on the complaint lodged by the defacto complainant, an FIR was registered against the petitioner and others and the specific allegation made by the defacto complainant is that the accused 1 and 2 had presented the forged sale deed for registration, which was entertained by

the petitioner and released the document after effecting the registration without conducting the enquiry as contemplated under Section 34(3) of the Act. As already discussed supra, in order to prevent the registration of fake documents and fraudulent property transactions, it is incumbent upon the Sub Registrar that before registering a document, he must satisfy himself that the persons executing such document or their representatives, assign or authorised agents appear before him and on their appearance, he shall enquire whether or not such document was executed by the person or persons by whom it purports to have been executed. But the prosecution case is that the petitioner has not conducted any such enquiry and allowed the fraudulent transaction and thereby committed the offence.

18. It is settled law that when an allegation made in the FIR or in the charge sheet constitutes the ingredients of the offence/offences alleged, the Court cannot quash the criminal proceedings. Interference by the High Court under Section 482 CrPC is only to prevent the abuse of process of any Court or otherwise to secure the ends of justice. It is also settled law that the defence adduced by the accused cannot be looked into by the Court since the same would be subject matter of trial. In such view of the matter, this Court is not inclined to interfere and quash the FIR registered against the petitioner. It is needless to mention that whatever defence available with the petitioner, can very well raise during the time of trial and prove his innocence.

19. In the result, this Criminal Original Petition is dismissed. Consequently, connected Criminal Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

rst/suk

To

1. The Inspector of Police,
District Crime Branch,
Tiruvallur.

2. The Public Prosecutor,
High Court,
Madras - 104.

CRL.OP.NO.4265 OF 2017 AND
CRL.MP.NO.3200 OF 2017

NK(CO)
PBS/11/01/2022