



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 7/12/2021

C O R A M

THE HONOURABLE MR.JUSTICE N. SATHISH KUMAR

CRL. O.P. NO.4492 OF 2017

AND

CRL.M.P.NOS.3368 AND 3369 OF 2017

Bhavika Jain

... Petitioner

Vs

1. The State
rep. By The Inspector of Police
DCB Kancheepuram.

2. S.P.Srinivasan

... Respondents

(Impleaded as per the order of this Court dated
21/4/2017 in Crl.M.P.No.5571 of 2017 in
Crl.O.P.No.4492 of 2017)

PRAYER :

Criminal Original Petition filed under Section 482 Cr.P.C.,
to call for the records in C.C.No.136 of 2015 pending on the
file of the learned Judicial Magistrate No.2, Chengalpet and
quash the same.

For Petitioner ... Ms.AL.Ganthimathi

For Respondents... Mr.S.Vinoth Kumar
Government Advocate
(Criminal Side) for R.1.
Mr.J.Suresh for R.2.

O R D E R

This Criminal Original Petition has been filed to quash
C.C.No.136 of 2015, pending on the file of the learned Judicial
Magistrate No.2, Chengalpet.



2. The crux of the charge sheet is that the accused A.1 with a fraudulent intention to cheat the defacto complainant conspired with A.2 and played deception to part with Rs.70 lakhs and received the amount, in order to sell the properties. Thereafter, he did not execute the sale deed thereby, committed an offence punishable under Sections 120 (b) and 420 of the Indian Penal Code.

3. Heard Ms.AL.Ganthimathi, learned counsel for the petitioner, Mr.S.Vinoth Kumar, learned Government Advocate (Criminal Side) for the first respondent and Mr.J.Suresh, learned counsel for the second respondent.

4. The learned counsel appearing for the petitioner submitted that there is no iota of material to prove that the petitioner and defacto complainant had any transaction and the act of the respondent Police is nothing but an abuse of process of law. Hence prays for quashment of the charge sheet.

5. When serious allegations have been made and the prosecution had examined the witnesses and whether or not deception has been played by A.1, to attract Section 420 of the Indian Penal Code has to be seen only before the trial Court by way of evidence. Therefore, the contention of the learned counsel for the petitioner that merely because Power of Attorney was executed by A.2, A.1 cannot be prosecuted has no legs to stand, at this stage. This Court cannot assume the role of the trial Court to enter into the evidentiary value of the statement and documents at this stage. Accordingly, I do not find any merit in this Criminal Original Petition.

6. In the result, this Criminal Original Petition is dismissed. Trial Court shall examine the witnesses on a day-to-day basis and complete the trial as expeditiously as possible. Consequently, connected Criminal Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

mvs.



To

1. The Judicial Magistrate No.2, Chengalpet.
2. Do-thro The Chief Judicial Magistrate,
Kancheepuram.
3. The Inspector of Police
DCB Kancheepuram.
4. The Public Prosecutor
Madras High Court
Chennai

+1cc to Ms.AL.Ganthimathi, Advocate, S.R.No.65003

Cr1. O.P. No.4492 of 2017

NRL (CO)
PM/27/12/2021