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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.12.2021

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THE HONOURABLE MR.JUSTICE N. SATHISH KUMAR

CrI. O.P. No.11444 of 2017
and
CRL.M.P.Nos.7522 &11172 of 2017

S.Murugan ... Petitioner/2nd Accused
Vs.

1. State by the Inspector of Police,
District Crime Branch,
Kanchipuram Collector's Office Campus,
Kanchipuram.
... 1st Respondent/Complainant

2. K.Raman ... 2nd Respondent/Defacto Complainant

PRAYER: Criminal Original Petition filed under Section 482 of Criminal Procedure Code, praying to call for the records pertaining to the proceedings in C.C.No.364 of 2012, on the file of Hon'ble District Munsif cum Judicial Magistrate, Sriperumbudur, Kanchipuram District and quash the same.

For Petitioner : Mr.G.K.Sekar

For Respondents : Mr.R.Kishore Kumar
Government Advocate(Crl.side) for R1
Mr.N.Sivakumar for R2

ORDER

This Criminal Original Petition has been filed to call for the records and quash the proceedings in C.C.No.364 of 2012, on the file of Hon'ble District Munsif cum Judicial Magistrate, Sriperumbudur, Kanchipuram District for the offence under Section 420 read with 34 of I.P.C.



2. The crux of the prosecution case is that the defacto complainant originally borrowed loan from A1 and A1 insisted him to execute a Power of Attorney in favour of A2. Accordingly, Power of Attorney was executed on 17.03.1999 by a registered document on the file of Sub-Registrar's Office at Sriperumbudur. However, based on the Power of Attorney, A1 has mortgaged the said property to one Mr.Sundar for Rs.50,000/- by a registered mortgage deed dated 24.01.2001. On coming to know about the mortgaged deed, the defacto complainant cancelled the said Power of Attorney executed in favour of A2 in the year 2001 by registering cancellation deed. Thereafter, despite the registration of cancellation deed, in order to grab the property, A2 has executed a registered sale deed dated 15.03.2006 in favour of A1. Thereby, they committed the aforesaid offence.

3. The learned counsel for the petitioner mainly submitted that A2/ petitioner is no way connected with the offence. He further submitted that A1 is his brother-in-law and only on his advice, he has executed a sale deed in favour of A1. He further submitted that the petitioner/A2 is not a party to the alleged crime except the Power of Attorney was executed in his name. Therefore, the entire prosecution has to be quashed.

4. Heard the learned Government Advocate(Crl.side) appearing for the respondent.

5. On perusal of the materials available on record, this Court is of the view that the very allegation itself indicate that, despite the registration of cancellation of Power of Attorney, the property has been sold after five years using the power deed originally executed. In such view of the matter, this Court cannot pass orders at this stage going to the evidentiary value of the statement recorded or the documents collected during the Investigation. In such view of the matter, I do not find any merits to quash this petition. Accordingly, this Criminal Original Petition is dismissed. Consequently connected miscellaneous petitions are closed.

6. At this juncture, learned Government Advocate(Crl.side) submitted that the case is now transferred to Judicial



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Magistrate Court, Kanchipuram. Therefore, learned Judicial Magistrate, Kanchipuram is directed to dispose of the main case as expeditiously as possible.

Sd/-
Assistant Registrar (CS-VI)

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Sub Assistant Registrar

msv/nr

To

1. The District Munsif cum Judicial Magistrate
Sriperumbudur, Kanchipuram.
2. The Judicial Magistrate
Kanchipuram.
3. The Inspector of Police,
District Crime Branch,
Kanchipuram Collector's Office Campus,
Kanchipuram.
4. The Public Prosecutor
High Court, Madras.

+1cc to Mr.G.K.Sekar, Advocate, S.R.No.67778

Cr1. O.P. No.11444 of 2017
and
CRL.M.P.Nos.7522 &11172 of 2017

SJ(CO)
SU(19/01/2022)