



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.01.2021

CORAM

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

CrI.O.P.No.188 of 2017  
and CrI.MP.No.140 of 2017

B.Sivaganesan

... Petitioner

Vs.

1. State Rep. by  
Inspector of Police,  
H-3, Tondiarpet Police Station,  
Chennai.  
(Crime No.767 of 2016)

2. L.Banumathi

... Respondents

Prayer: This Criminal Original Petition filed under Section 482 Cr.P.C., calling for the records of the FIR in Crime No.767 of 2016 pending investigation on the file of the first respondent and quash the same.

For Petitioner : Mr.A.Prabhakaran

For Respondents : Mr.C.Raghavan R1  
Government Advocate (CrI. side)  
Mr.Mukesh Kanna R2

ORDER

This petition has been filed to quash the FIR in Crime No.767 of 2016 registered before the first respondent on 16.09.2016.

2. The case of the prosecution is that the second respondent, who is a Doctor, is well known to one Vellaichamy and he had informed the second respondent that he knows one Siva Ganesan, who was willing to sell two flats each worth a sum of Rs.1,18,00,000/- (Rupees One Crore and Eighteen Lakhs only). Based on the promise made by the said Sivaganesan, who is the petitioner herein, the second respondent entered into an agreement of sale dated 16.08.2008 with the petitioner and is said to have paid an advance amount of Rs.10,00,000/- (Rupees Ten Lakhs only). The further case of the prosecution is that even the original tile deeds were handed over to the second respondent when the sale agreement was entered into. Subsequently, the petitioner did not fulfil the promise and the cheques issued by him also got dishonoured. It is alleged that the petitioner and the said Vellaichamy threatened the



second respondent to hand over the original title deeds. Based on this complaint given by the second respondent, an FIR came to be registered for an offences under Section 420, 417, 463 and 506(ii) of IPC.

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3. Heard Mr.A.Prabhakaran, learned counsel for the petitioner, Mr.C.Raghavan, learned Government Advocate for the first respondent and Mr.Mukesh Kanna, learned counsel for the second respondent.

4. In the considered view of this Court, the entire transaction that has taken place between the parties is purely civil in nature. Admittedly, there was an agreement of sale executed in favour of the second respondent as early as in the year 2008 itself and she did not take any steps to proceed further to file a suit for specific performance based on the said agreement. Similarly, the second respondent has also not taken any steps to file any suit for recovery of money for the amount that was paid by her as advance at that time of entering into an agreement of sale. The learned counsel for the petitioner brought to the notice of this Court certain payments were made to the second respondent by way of Demand Drafts to the tune of Rs.2,25,000/-. This Court does not want to take this fact into consideration for the purposes of the present case and this Court is purely going by the averments that have been made in the complaint.

5. The entire dispute is civil in nature and an attempt has been made to give it a criminal colour. The allegations made in the FIR also did not disclose the commission of any offence by the petitioner. Therefore, continuation of the investigation based on the FIR registered by the first respondent will only amount to an abuse of process of law and the same requires the interference of this Court. Useful reference can be made to the judgment of the Hon'ble Supreme Court in State of Haryana and others Vs. Bajan Lal and others reported in 992 (1) SCC 335.

6. In the result, the FIR registered by the first respondent in Crime No.767 of 2016 is hereby quashed and the Criminal Original Petition is allowed accordingly. Consequently, connected miscellaneous petition is closed.

Sd/-  
Assistant Registrar(CS-CCC)

//True copy//

Sub Assistant Registrar

rli

To

<https://hcservices.ecourts.gov.in/hcservices/>

1. The Inspector of Police,  
H-3, Tondiarpet Police Station,  
Chennai.



2. The Public Prosecutor  
High Court of Madras  
Chennai - 600 104.

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+1cc to Mr.A.Prabhakaran, Advocate SR.No.2312

Cr1.O.P.No.188 of 2017  
and Cr1.MP.No.140 of 2017

AJS (CO)  
GMY (20/07/2021)