



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.12.2021

CORAM:

THE HON'BLE MRS.JUSTICE T.V.THAMILSELVI

CRL.O.P.NOS.31087 & 31089 OF 2019

A.Sivadasan

.. Petitioner/Accused in
both Crl.O.P.Nos.

Versus

The State Rep. By
Sub Inspector of Police,
Hosur Town Police Station,
Krishnagiri District.

.. Respondent/Complainant
in both Crl.O.P.Nos.

Prayer in Crl.O.P.No.31087 of 2019:

Criminal Original Petition filed under Section 482 of Criminal Procedure Code, praying to set aside the order dated 27.09.2019 made in CMP.SR.No.8899 of 2019 in S.C.No.42 of 2016 on the file of Assistant Sessions Judge, (Principal Sub Judge), Hosur and direct the Assistant Sessions Judge, Hosur to return the original sale deed dated 15.06.2016 vide document No.9510 of 2015 produced by the surety Ms.Hina Fazhall.

Prayer in Crl.O.P.No.31087 of 2019:

Criminal Original Petition filed under Section 482 of Criminal Procedure Code, praying to set aside the order dated 27.09.2019 made in CMP.SR.No.6437 of 2019 in S.C.No.42 of 2016 on the file of Assistant Sessions Judge, (Principal Sub Judge), Hosur and direct the Assistant Sessions Judge, Hosur to return the original sale deed dated 23.03.2011 vide document No.4109 of 2011 produced by the surety Mr.Syed Sikkander.

For Petitioner : Mr.M.Karunanithi

For Respondent : Mr.A.Gokulakrishnan
Additional Public Prosecutor



COMMON ORDER

The petitioner has filed petitions in CMP.SR.No.8899 of 2019 and CMP.SR.No.6437 of 2019 in S.C.No.42 of 2016 before the learned Assistant Sessions Judge, (Principal Subordinate Judge), Hosur, under Section 452 of Cr.P.C., for return of documents at conclusion of trial, which was submitted by him at the time of execution of sureties as per the order dated 15.11.2017 passed by the learned trial Judge in S.C.No.42 of 2016, but the petition was returned by the Court on 16.07.2019.

"This case is pending before the Hon'ble High Court in CRC.No.1184 of 2018 and hence for this petition is maintenance to be explained. Hence Returned. Time two months."

2. By Challenging that order, now the petitioner has preferred these Criminal Original petition and is praying to direct the Assistant Sessions Judge (Principal Subordinate Judge), Hosur to return the original sale deed dated 15.06.2016, vide document No.9510 of 2015 produced by the surety / Ms.Hina Fazhall and sale deed dated 23.03.2011, vide document No.4109 of 2011 produced by the surety / Mr.Syed Sikkander.

3. At the time of arguments, the learned counsel for the petitioner submitted that in S.C.No.42 of 2016, the judgement was passed by the learned Assistant Sessions Judge, Hosur on 15.11.2017, and in that judgment, he was convicted for the offences under Sections 364, 384 and 506(i) IPC and sentenced to undergo five years Rigorous Imprisonment and to pay a fine of Rs.1,000/-, in default to undergo three months Rigorous Imprisonment for the offence under Section 364 IPC and undergo one year Rigorous Imprisonment for the offence under Section 384 IPC and to undergo one year Rigorous Imprisonment for the offence under Section 506(i) IPC. Aggrieved by the said order, the petitioner has preferred an appeal in Crl.A.No.50 of 2017, and the same was dismissed, vide judgement dated 27.09.2018 by the learned Additional District and Sessions Judge, Hosur. Thereafter, he filed Crl.M.P.Nos.13945 and 13946 of 2018 in Crl.R.C.No.1184 of 2018 and the same were admitted by this Court and the sentence was suspended by order dated 16.10.2018. While suspending the sentence, this Court directed the petitioner to furnish and execute a bond to comply with the said order dated 27.09.2018 with two sureties each.

4. The fact is that the trial Court proceedings were initiated before the learned Assistant Sessions Judge, (Principal Sub Judge), Hosur in S.C.No.42 of 2016. Furthermore, as per the order dated 15.11.2017 passed, while granting bail in SC.No.42 of 2016, the original sale deed was directed to be



submitted to comply with the bail order. From the above it is evident that the sale deed was directed to be submitted only till such time the sureties were executed. As of now sureties having stood executed, as per the order dated 16.10.2018 passed in CrI.M.P.Nos.13945 & 13946 of 2018, the sale deed ought to be returned back to the petitioner, as it is not necessary for the trial Court to retain it any more.

5. For the reasons aforesaid, these Criminal Original petitions are allowed and the Court below is directed to return the sale deed back to the petitioner.

Sd/-

Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

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To

1. The Assistant Sessions Judge,
(Principal Sub-Judge)
Hosur.
2. The Sub Inspector of Police,
Hosur Town Police Station,
Krishnagiri District.

+2ccs to Mr.C.Prabakaran, Advocate, S.R.No.68027,68026

CrI.O.P.Nos.31087 & 31089 of 2019

KJ(CO)
PM/10/02/2022