



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.06.2022

CORAM

THE HON'BLE DR.JUSTICE G.JAYACHANDRAN

CRL.O.P.NOS.1344 & 2562 OF 2019

AND

CRL.M.P.NOS.874, 875 & 1656 OF 2019

1.S.K.Aswin Sidharth

...Petitioner in Crl.O.P.
No.1344 of 2019 / Accused No.1

1.R.Geetha

2.R.Sivarathinam

3.R.Pratap Singh

...Petitioners 1 to 3 in Crl.O.P.
No.2562 of 2019 / Accused 2, 3 & 5

Versus

T.Kannabiran

...Respondent in both Crl.O.Ps /
Complainant

Prayer in both Crl.O.Ps : These Criminal Original Petitions have been filed under Section 482 of Criminal Procedure Code to call for the records in C.C.No.181 of 2018 pending on the file of the learned Judicial Magistrate, Maduranthagam, Kancheepuram District and quash the same.

Crl.O.P.No.1344 of 2019

For Petitioner : M/S.E.Kannadasan

Crl.O.P.No.2562 of 2019

For Petitioner : M/S.S.N.A.Hussainy

In both Crl.O.Ps

For Respondent : Mr.V.C.Vinoth Kumar



COMMON ORDER

These two Criminal Original Petitions have been filed under Section 482 Cr.P.C to quash the private complaint, pending on the file of the learned Judicial Magistrate, Maduranthagam, Kancheepuram District in C.C.No.181 of 2018 for the alleged offences under Sections 420 and 506(ii) I.P.C. The sum and substance of the private complaint is that, one Mr.Aswin Sidharth, who is the petitioner in Crl.O.P.No.1344 of 2019, obtained Power of Attorney from the de-facto complainant and the same was duly registered, vide Document No.4133 of 2014 at Sub-Registrar Office, Maduranthagam on 15.06.2014. Based on the Power of Attorney, the said Aswin Sidharth sold the property measuring 5.17 acres to Accused Nos.2 to 5, who are the petitioners in Crl.O.P.No.2562 of 2019, for a sum of Rs.2,96,00,000/- (Rupees Two Crores and Ninety Six Lakhs Only). The first accused has paid only Rs.33,00,000/- (Rupees Thirty Three Lakhs Only) to the de facto complainant and for the balance amount, the first accused gave a cheque for Rs.2,63,00,000/- (Rupees Two Crores Sixty Three Lakhs Only). But the same, on presentation, bounced with endorsement 'insufficient funds', and when the de-facto complainant approached the accused persons, they threatened the de-facto complainant and hence the de-facto complainant gave a complaint to the Superintendent of Police, Kancheepuram on 10.11.2017. Since no action was taken by the Superintendent of Police, he filed a petition before this Court seeking direction and pursuant to the direction issued by this Court in Crl.O.P.No.882 of 2018 on 11.01.2018, a case was registered and it was taken on file as C.C.No.181 of 2018 by Judicial Magistrate, Maduranthagam.

2. This private complaint is sought to be quashed by the first accused/Aswin Sidharth on the ground that, pursuant to the Power of Attorney executed by the de-facto complainant, he sold the property to Accused Nos.2 to 5 and the sale consideration of Rs.51,70,000/- (Rupees Fifty One Lakhs Seventy Thousand Only) was given to the de-facto complainant and he has also issued a receipt in a stamp paper. While so, having received the money towards the entire sale consideration, the de-facto complainant to extract more money, intimidated the first accused, for which he gave a complaint to the Inspector of Police, Thirumangalam, against Kannabiran/de-facto complainant (respondent herein).

3. The learned counsel appearing for the other accused who are the subsequent purchasers of the land, would submit that they are bona fide purchasers based on the Power of Attorney document, and they have paid the entire sale consideration to the Power Agent and they have no role in the alleged non-payment



of consideration and further the private complaint as such does not attribute any overt act against them.

4. The learned counsel appearing for the de-facto complainant would submit that the de-facto complainant passed away and there is no intimation or instruction from the Legal Heirs of the de-facto complainant.

5. This Court on perusing the records and the documents, finds that the de-facto complainant has executed a Power of Attorney deed in favour of one Aswin Sidharth, registered as Document No.4133 of 2014 at Sub-Registrar Office, Maduranthagam, in respect of land situated at Sivadi Village. The de-facto complainant, on receipt of consideration of Rs.51,70,000/- (Rupees Fifty one Lakhs Seventy Thousand Only) from the Power Agent Aswin Sidharth, has issued a receipt dated 26.06.2014 in a stamp paper. However, in the private complaint, it is alleged that Aswin Sidharth has paid only Rs.33,00,000/- (Rupees Thirty Three Lakhs Only) and for the balance amount of Rs.2,63,00,000/- (Rupees Two Crores Sixty Three Lakhs Only), he gave a cheque, but on presentation, it got bounced.

6. The necessity for the Power Agent to issue a cheque for Rs.2,63,00,000/- (Rupees Two crores and Sixty Three Lakhs) on 20.10.2015, has not been spoken or explained in the complaint. While the complaint given by the Power Agent Aswin Sidharth to the Inspector of Police, Kancheepuram indicates that the de-facto complainant had another property at Suleri Kaddu Village and the cheques were issued as part of sale consideration for that property, taking advantages of the said cheque, the de-facto complainant and his son are trying to intimidate and extract money.

7. The learned counsel appearing for the petitioners would emphasise that the transaction regarding the property at Sivadi Village got completed in the month of June 2014 itself, whereas, after a lapse of 20 months, the de-facto complainant has come before the Court to register his complaint, which contains frivolous and false averments.

8. Considering the disputed facts regarding the transactions, this Court is of the view that the materials available before this Court cannot be summarily assessed to quash the complaint pending before the trial Court. Therefore, while dismissing these two petitions for quashing, this Court directs the trial Court to consider the materials placed by the de-facto complainant, who is now reported to be dead, and in case, the Legal Heirs want to pursue the matter before the proceedings, further it is for the trial Court to appreciate the documents and frame charges, only if there is prima facie



material available for framing charges. In any event, the trial shall be completed preferably within a period of four months from the date of receipt of a copy of this order. Any observation made in this order shall not prejudice either of the parties. Consequently, connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar (CS-VI)

// True Copy //

Sub Assistant Registrar

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To

1.The Judicial Magistrate,
Maduranthagam,
Kancheepuram District.

2.The Public Prosecutor,
Madras High Court,
Chennai.

+1cc to M/s.E.Kannadasan, Advocate Sr.No.32465

+1cc to M/s.V.C.Vinoth Kumar, Advocate Sr.No.33394

CRL.O.P.Nos.1344 & 2562 of 2019
and
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PMK (CO)
RVM(20/06/2022)