



CrI.O.P No.2285 of 2---

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : **14.11.2022**

CORAM

THE HONOURABLE Ms. JUSTICE R.N.MANJULA

CrI.O.P No.2285 of 2021
and CrI.M.P.No.1259 of 2021

Raghuram

... Petitioner

Vs.

1.State represented by
Inspector of Police,
Central Crime Branch,
EDF-II, Team-IX A,
Vepery,
Chennai – 07.
Cr. No.219/2018

2.Shoobarani

... Respondents

PRAYER: Criminal Original Petition is filed under Section 482 of Criminal Procedure Code, praying to call for the records to the C.C. No.2639 of 2020 on the file of the learned Chief Metropolitan Magistrate, CCB and CBCID (Metro) Egmore, Chennai and quash the same.

For Petitioners : Mr. S.N.Arunkumar

For R1 : Mr.A.Damodaran
Additional Public Prosecutor
R2 : Party-in-person



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ORDER

This petition is filed to call for the records pertaining to C.C. No.2639 of 2020 on the file of the learned Chief Metropolitan Magistrate, CCB and CBCID (Metro) Egmore, Chennai and quash the same.

2. The petitioner is the third accused in the case registered by the first respondent police in Cr. No.218/2019 for the offences under Section 419, 465, 467, 468, 471 r/w. 34 IPC @ 120B, 419, 420, 465, 467, 468, 471 r/w. 34 and 109 IPC. The case of the prosecution is that the first accused who came to know that the second respondent property is lying vacant, had created a forged power of attorney document in favour of the second accused by impersonation. Thereafter the second accused executed a sale deed in favour of the petitioner and for which the fourth and fifth accused have affixed signatures as witnesses. The second respondent had given a complaint by stating that the property was purchased by her on 18.12.2018 by virtue of a registered sale deed. In view of the complaint given by the second respondent, a case has been registered in Cr. No.218 of 2019 for the offences under Section 419, 465, 467, 468, 471 r/w. 34 IPC @ 120B, 419, 420, 465, 467, 468, 471 r/w. 34 and 109 IPC. After completion of



investigation, charge sheet has been filed against A1 to A7 for the offences under Section 120 B, 419, 420, 465, 467, 468, 471 r/w. 34 and 109 IPC.

3. The learned counsel for the petitioner submitted that as far as the petitioner is concerned, he is a bonafide purchaser who believed that the second accused is the lawful power agent of original owner, the second respondent herein; after coming to know about the fraudulent activities of the accused 1, 2 and 7, the petitioner cancelled the sale deed and thereby lost his own money, which he paid as the sale consideration to second accused.

4. Today when the matter is taken up, the second respondent / *de facto* complainant has made her appearance before this Court in person and submitted that the petitioner who is the third accused had executed a cancellation deed of the earlier sale deed dated 18.12.2018 by virtue of a registered cancellation deed dated 10.03.2020. The second respondent has further stated that she has no grievance as against the petitioner / third accused and she believes that the petitioner himself was trapped by the first and second accused.



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5. The sale deed in favour of the petitioner was for a consideration of Rs.25,00,000/-. The petitioner / third accused could have made a proper enquiry before getting sale deed executed by the second accused. Since the petitioner / third accused himself is a victim who had cancelled the sale deed after knowing that he did not get the sale deed from the original owner and someone has defrauded him, it can be believed that the petitioner has got no criminal intention. The petitioner could have gone into trouble by genuinely believing that the executant is the power agent of the original owner of the property.

6. No materials are available on record to prove that the petitioner / third accused had conspired together with other accused in order to get a sale deed from a person who did not have the title. The conduct of the petitioner in cancelling the sale deed after realising the fraudulent activities would show that the petitioner did not have any intention to cheat the second respondent. Under such circumstances, no useful purpose will be served if the petitioner is subjected to trial.



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7. Since the materials available on record does not disclose any criminal intention against the petitioner, I feel that the proceedings should be quashed as against the petitioner / third accused.

8. Accordingly, this Criminal Original Petition is allowed and the proceedings in C.C. No.2639 of 2020 on the file of the learned Chief Metropolitan Magistrate, CCB and CBCID (Metro) Egmore, Chennai is quashed as against the petitioner / third accused only. Consequently, connected miscellaneous petition is closed.

14.11.2022

Index : Yes/No
Speaking Order : Yes / No
bkn

To:

1. Inspector of Police,
Central Crime Branch,
EDF-II, Team-IX A,
Vepery,
Chennai – 07.
2. The Chief Metropolitan Magistrate,
CCB and CBCID (Metro) Egmore,
Chennai
3. The Public Prosecutor,
High Court, Madras.



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R.N.MANJULA, J.,

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