IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 25.04.2022
DELIVERED ON : 17.06.2022

CORAM ::

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

Crl.O.P.Nos.2141 of 2018 and 3616 of 2021
and
Crl.M.P.Nos.806 of 2018 and 2131 of 2021

Yuba T.Reichard ... Petitioner/Accused-3 in Crl.O.P.No.2141 of 2018

K.Thukkaiandi ... Petitioner/Accused-4 in Crl.O.P.No.3616 of 2021

Versus

1.State rep by
Inspector of Police,
Central Crime Branch,
Chennai.
(Crime No.233 of 2012)

2.Rajaiah ... Respondents in both Crl.O.Ps.

COMMON PRAYER : Criminal Original petitions filed under Section 482 Cr.P.C. praying to call for the records relating to C.C.No.1173 of 2017 pending on the file of learned Judicial Magistrate, Alandur and quash the same insofar the petitioner is concerned.

For Petitioner in both Crl.O.Ps.	:	Mr.N.R.Elango, Senior Counsel for Mr.S.Anbalagan & in Crl.OP.2141/18 for Mr.S.Manuraj in Crl.O.P.3616/2021
For Respondent-1 in both Crl.O.Ps.	:	Mr.A.Damodaran Additional Public Prosecutor
For Respondent-2 in both Crl.O.Ps.	:	Mr.K.Kannan

COMMON ORDER

These Criminal Original Petitions are filed to quash the proceedings in C.C.No.1173 of 2017 on the file of the learned Judicial Magistrate, Alandur.

2. The complaint is that L.W.1-Rajaiah, lodged a complaint stating that on 08.09.2008, he entered into an agreement for sale with S.Ravi/L.W.3 in respect of the vacant building site to an extent of 12,000 sq.feet situated at New No.51, Old No.189, Sholinganallur Village, Tambaram Taluk, Kancheepuram District in Survey Nos.12/1 and 12/2 (Plot No.297) and the agreement for sale was registered before Sub Registrar Office, Neelankarai in Doc.No.3679/2008 on 08.09.2008. The sale price was fixed at Rs.30 lakhs, on the date of agreement Rs.5 lakhs was paid as advance. The said Ravi claimed himself as Power of Agent of Chandresh M. Kambani (L.W.2) S/o.Late Mahendrakumar Naveenchandra Kambani and Malini Mahendrakumar Naveenchandra Kambani. L.W.2 executed a general power of attorney in favour of L.W.3/Ravi registered as Doc.No.1314/2007 on 09.07.2007 in the office of Joint Sub Registrar Office, Mumbai-1. L.W.2's parents purchased the property through one Ganesan, Power Agent of Chokalingam Mudaliar in the year 1967 vide Doc.No.881/1967. Thereafter, L.W.2's mother expired on 07.02.1980 and his father expired on 26.08.1997. L.W.2 authorised L.W.3 to deal with the above said land. After agreement of sale, the de-facto complainant applied for Encumbrance Certificate in Sub Registrar Office, Neelankarai and came to know that the said property, changed hands to three persons, as though Mahendrakumar Naveenchandra Kambani executed general power of attorney in favour of Dhanalakshmi (A2) on 12.04.2007 in Doc.No.210/2007 before Joint Sub Registrar Office, Trichy. Using the said power of attorney, Dhanalakshmi executed a sale deed in favour of Subbulakshmi(A1) vide Doc.No.3052/2007 on 17.05.2007 in Sub Registrar Office, Neelankarai, in turn, Subbulakshmi executed a settlement deed in favour of her elder daughter, Yuba T.Raichard(A3) in Doc.No.1665/2008 on 22.02.2008 in Sub Registrar Office, Neelankarai. It was further found that Subbulakshmi, in the same manner, executed a sale deed in favour of his another daughter T.Yamini for Plot No.277 and started putting up construction in Plot Nos.297 & 277 all over the 10 grounds. L.W.3/Ravi, who is the power of agent for Plot No.297, fearing for the consequences at the hands of Subbulakshmi (A1) and Yuba T.Raichard(A3), who are wife and daughter of K.Thukkaiandi (A4), an I.P.S. Officer holding senior position in the police department, lodged a complaint. The first respondent police on registration of F.I.R., took up investigation. During investigation, it was found that the first accused is the wife of K.Thukkaiandi (A4), second accused impersonated herself as Tamilarasi, who is none other than A1’s brother’s mother-in-law. A3 is the daughter of A1 and A4. Husband of A1 is a Senior Police Official. The property in Sholinganallur was sold by one Ganesan, power of agent of Chokalingam Mudaliar on 25.02.1967 to the parents of L.W.2, in short Kambani of Mumbai in Doc.No.881/1967. The parents of L.W.2 passed away during 1980

and 1997. Thereafter, the property devolved on L.W.2. On 09.07.2007, L.W.3 approached L.W.2 along with L.W.6/Thangavel, L.W.7/Annadurai and one Philip. L.W.6 is the relative of L.W.3. Thereafter a power of attorney was executed by L.W.2 in favour of L.W.3 in Doc.No.1314/2007 in the office of Joint Sub Registrar Office, Mumbai-1. One of the condition is that as per clause 11, the sale to be concluded within one year. Thereafter, all came back from Mumbai. L.W.3 was acting on the advise of L.W.7. Thereafter, L.W.4 was approached, who is a real estate broker, who identified L.W.1, who intend to purchase the property. Thereafter, L.W.1 paid an advance of Rs.5 lakhs and agreement for sale was registered on 08.09.2008 in Doc.No.3679/2008 in Sub Registrar Office, Neelankarai. When L.W.1/de-facto complainant visited the property, he saw construction activities were carried by A1. When he questioned A1, she informed that she acquired the property and the documents held by L.W.1 was forged thereafter. L.W.1 questioned L.W.3 about the same, he informed that his uncle L.W.7 is only aware of the particulars. Thereafter, he approached L.W.2, who handed over the documents whatever available with him. Thereafter, during investigation it was found that A1 is the master mind behind the entire operation, who made arrangement for execution of power of attorney in favour of A2, in the name of L.W.2's father and got registered power of attorney in favour of A2 in Doc.No.210/2007 on 12.04.2007 as though Mahendrakumar Naveenchandra Kambani executed the power of attorney. The said Mahendrakumar Naveenchandra Kambani passed away 10 years prior to the execution of Power of Attorney document in his name. Using this forged power of attorney, thereafter a sale deed has got executed by A2/Dhanalakshmi in favour of A1/Subbulakshmi and A1 executed a settlement deed in favour of A3/Yuba T.Reichard. For execution of all these documents, the witnesses produced address proof and identity proof, by forging documents. The concern Sub Registrar Office was pressurised to immediately register the documents without delay using the influence of A4/Thukkaiandi, then Inspector General of Police, Vigilance and Anti Corruption, Chennai. Further, on coming to know about the rival claim made, L.W.3 was forced to cancel the agreement of sale entered with L.W.1. The agreement of sale between L.W.3 and L.W.1 was cancelled by Doc.No.3592/2010 on 15.07.2010. The name of A4 was used to influence the witnesses to execute and register documents as per the design of A1, the prime accused. Therefore on conclusion of investigation charge sheet filed in this case.

3. The gist of the case is that one Rajaiah (L.W.1) lodged a complaint to the Commissioner of Police on 12.04.2012, which was forwarded to the Assistant Commissioner of Police, Neelankarai Range on 14.12.2012. The first respondent registered an F.I.R. on 23.04.2012 in Crime No.233/2012 for offence under

Section 419, 467, 468, 471 r/w 120(b) I.P.C. against three persons, namely, Dhanalakshmi, Subbulakshmi and Yuba T. Reichard. Thereafter on conclusion of the investigation, charge sheet filed on 27.10.2017 listing L.W.1 to L.W.46 and documents. Further in the charge sheet one more accused included as A4.

4. The contention of the petitioner/A3 in Crl.O.P.No.2141 of 2018 is that except for being daughter of A1 and A4, she got nothing to do with the above case. The transaction took place in the year, 2008, when she was in her teens. After completion of education and higher education abroad, she married a person of her choice in U.S.A. and now settled in U.S.A as U.S. citizen. All the transaction in her name was carried by her mother A1/Subbulakshmi. Other than keeping quiet, signing in dotted lines, she knows nothing about the case. Further, the construction of building and thereafter letting out for rent and the collection of the rent are all being carried by her mother A1. The petitioner executed a power of attorney in favour of her mother in Doc.No.141/2011 and from thereon, it is her mother, who is looking after the property. After completing her studies in the year 1998, she is residing in foreign soil. She obtained U.S. citizenship and she rarely visits India to meet her family members. The de-facto complainant is well aware about the petitioner's status and her stay in abroad, she never met any of the persons with regard to the above case. None of the witnesses have stated anything against this petitioner. The case of the prosecution is that in order to grab the property of Chandresh M. Kambani, forged power of attorney was created on 12.04.2007 at Joint Sub Registrar Office Trichy. Based on this document, the petitioner's mother on 17.05.2007 purchased the property and later on 22.04.2008, settled the property in favour of the petitioner. The said settlement was executed by A1 on her own and the petitioner has got nothing to do with the same. She is settled in Macau. She executed a power of attorney in favour of her mother and nothing more. Further she submits that in this case L.W.3 was appointed as power of attorney by L.W.2 on 09.07.2007. Based on which, L.W.3 entered into an agreement for sale with de-facto complainant on 08.09.2008, but the same was cancelled on 15.07.2010 by Doc.No.3592/10. Thereafter the de-facto complainant has got nothing to do with the above said property and hence, his complaint dated 12.04.2012 as an agreement holder is not proper. The de-facto complainant has got no locus standi to lodge a complaint. Further submits that the de-facto complainant entering into agreement for sale is subsequent to the earlier power of attorney of A2 in Doc.No.210/2007 dated 12.04.2007 and further the subsequent sale of A2 to A1 in Doc.No.3052/2007 dated 17.05.2007. These two documents are earlier documents, which would very well get reflected in encumbrance certificate. The purchaser is bound to verify. In

this case, with an ulterior motive, the above complaint has been lodged as could be seen from the statement of witnesses, namely, L.W.3, who categorically states that L.W.7/Annadurai had earlier entered into an agreement with A1 to sell the property and thereafter there was some dispute between them for which, a case has been wound around the accused. The petitioner's father A4 is a strict Police officer, his honesty and integrity is well known. He has taken stern action against powerful personalities including erstwhile Chief Minister and her cabinet ministers, he was the chief co-ordinating officer of C.B.C.I.D. to monitor all the high profile cases previously. For that reason he and his family members are targeted and they had been falsely implicated in the criminal case. Further, the statement of L.W.3/Ravi, L.W.4/Kadhirvel, L.W.5/Boomathy, L.W.6/Thangavel and L.W.7/Annadurai would reveal that they all joined together to invest and make profit in the property and that is the reason they approached L.W.1 and for that reason, an agreement of sale was entered with L.W.1. Further in this case L.W.4 and L.W.5 are in the real estate business, well conversant with verification of title deeds of a property and scrutiny of documents. Further, L.W.7/Annadurai is a person of doubtful character, against whom criminal cases are pending and departmental action taken. The said Annadurai joined with L.W.6/Thangavel, Inspector of Police, Railway Protection Force, to fleece the accused and extract money, they collected documents from L.W.2 and projected a false case. In this case, the construction in the property commenced in the year, 2008 and completed in the year 2010. Thereafter, let out on lease rent. Two years thereafter the above complaint lodged. Further submitted that the Civil proceedings are pending with regard to the above property. She further submitted that with regard to the adjacent property a case in crime No.315/12 registered and charge sheet filed in C.C.No.113 of 2019 against the petitioner's family members including her father and sister. The case against her sister and her father was quashed by this Court in Crl.O.P.Nos.13791 and 2880 of 2020 by order dated 29.09.2020 on identical grounds. Hence, prayed for quashing this petition.

5. The petitioner/A4 in Crl.O.P.No.3616 of 2021 submits that the case against him proceeds primarily on the ground that to grab the property belonging to L.W.2, a forged power of attorney was created on 12.04.2007 in Doc.No.210/2007 in Sub Registrar Office, Trichy and thereafter a sale deed was executed by A2 in favour of A1 in Doc.No.3052/2007 dated 17.05.2007 in Sub Registrar Office, Neelankarai. Thereafter A1 settled the property in favour of her daughter on 22.04.2008 in Doc.No.1665/2008. It is contended that on 09.07.2007, L.W.2 was approached by L.W.3 along with L.W.6, L.W.7 and one John, thereafter L.W.2 executed a power of attorney in favour of L.W.3 in Doc.No.1314/2007 before the Joint Sub Registrar, Mumbai. One

of the condition, as per clause 11 is that the sale to be completed within one year. Thereafter, they approached L.W.4 and L.W.5, the real estate business persons, who approached L.W.1 to buy the property. L.W.1 on scrutiny of the documents, approached L.W.3 and entered into an agreement for sale on confirmation and assurance given by L.W.4, L.W.5, L.W.6 and L.W.7. L.W.7 is the Railway Protection Force constable and L.W.6 is the Railway Protection Force Inspector. L.W.7 signed as witness before the Sub Registrar Office both in Mumbai and in Chennai in the name of Ramachandra Rao. L.W.3 is merely a tool at the hands of L.W.6 and L.W.7, who acted as their dictum, to make money by other means. L.W.4 and L.W.5 are the real estate brokers, who identified L.W.1 and thereafter sale agreement entered between L.W.3 and L.W.1. In the meanwhile, some dispute arose between them and thereafter L.W.4, L.W.6 and others have gone to Mumbai and confronted L.W.2, who asked them not to come again and disturb him, handed over the available documents, namely, his parents death certificate, legal heir certificate and other documents to them. L.W.3 admits that L.W.6/Thangavel earlier dealt with A1 for the same property, some misunderstanding arose between them, for that purpose L.W.2 approached, documents created thereafter, L.W.3 was used as a tool. Later approached A1 for a settlement since A1 not yielding to their demand, present police complaint lodged. The act of A1 and A2 from the year 2007 are independent on their own. Likewise, the act of L.W.1 to L.W.7 are independent. The petitioner got nothing to do with the transaction of L.W.1 to L.W.7 or A1 and A2 in execution of power of attorney document, sale deed and thereafter developing the property. A1 acted independently. The petitioner/A4 not a named accused in F.I.R. The petitioner's honesty and integrity is well known. He is attempted to be roped in as though he instructed L.W.25 Chandru alias Chandrasekar, who was in the EB Vigilance office, known to the petitioner and through him L.W.3 was contacted to cancel the sale agreement between L.W.3 and L.W.1. Further, from I.G. office it was informed to L.W.16/Deputy Registrar, South Chennai to instruct L.W.27/N.Sekar, Sub Registrar Office Neelankarai to register the sale deed between A1 and A2 without any delay. Likewise L.W.28 was called from the I.G. office to register the cancellation deed document No.3592 on 15.07.2010 without any delay. Other than this there is nothing against the petitioner. None of the witnesses stated anything about the petitioner in taking part in any of the transactions right from 2007 to 2012 till the FIR came to be registered. The petitioner has been victimised since he has taken stern action against erstwhile Chief Minister and former Ministers, when he was Superintendent of Police, C.B.C.I.D. and acted as nodal person for the prosecution before the Special Courts. The petitioner's honesty, integrity and devotion to the duty is impeccable and he is made as a scapegoat to deter and disrepute the police officials, who act against the powerful politicians even if any offence committed by them. He further submitted that this Court on identical facts, quashed the case against the petitioner in C.C.No.113 of 2019 by allowing Crl.O.P.Nos.13791 and 2880 of 2020. This case is also on the similar lines.

6. The second respondent/de-facto complainant submitted that the parents of L.W.2, namely, Mahendrakumar Naveenchandra Kambani and Malini Mahendrakumar Naveenchandra Kambani jointly purchased the property situated at Sholinganallur Village, “The Seassore Town” comprised in Survey Nos.12/1 and 12/2 bearing Plot No.297, measuring an extent of 12,000 sq.feet (5 grounds) from one Chokalingam Mudaliar by a sale deed Doc.No.881/1967 dated 25.02.1967 registered in Sub Registrar Office, Saidapet, Chennai. The parents of L.W.2 were permanent residents of Mumbai residing at No.9/2, Firdaus Building, 56 Marine Drive 'D' Road, Opp. Wankhede Stadium, Mumbai-400 021 and lived in Mumbai till they expired. L.W.2's mother passed away on 07.02.1980 and subsequently his father passed away on 26.08.1997. The power of attorney Doc.No.210/2007 dated 12.04.2007 based on which A2 claims right over the property almost 10 years after the death of L.W.2's parents. On the face of it, the document is a forged one. All other subsequent documents are also forged and cannot be acted upon. In view of the same, A2 claim over the property is based on forged power of attorney, thereafter executes a sale deed in favour of A1, and A1 thereafter settling property to A3. All these acts are forged, not valid document in eye of law. Since the primary documents itself is forged one, by no stretch A1 to A3 can claim right over the property and projected it as though, it is a Civil dispute and civil suits are pending. Civil suit filed by the accused are non sustainable in law and the same to be dismissed, since the entire case rest on Doc.No.210/2007, which was created 10 years after L.W.2 parents died. Further, the property is a joint property owned by L.W.2's father and mother. The Power of Attorney is claimed to be in Doc.No.210/2007 executed only by L.W.2's father. Further, parents of L.W.2 are permanent residents of Mumbai and at no point of time they resided in Trichy. The photograph in the Power of Attorney document of L.W.2's father is also forged. The second respondent not aware about the creation of this forged documents till the respondent-police sent summons to L.W.2 and called him for enquiry on 05.06.2012. L.W.2 received police notice dated 31.05.2012 and thereafter, he appeared before the respondent police on 02.07.2012, who submitted documents, namely, the death certificate, legal heir certificate and other documents. He further submitted that on 09.07.2007, L.W.3 Ravi approached L.W.2 along with L.W.6 and L.W.7 and represented that L.W.3 is a poor person and he needs Plot No.297, wherein he can have cowshed and survive. Considering the same, L.W.2 agreed to sell the property to Ravi for paltry sum, thereafter executed a

power of attorney and also agreement for sale. The power of attorney was registered in Doc.No.1314/2007 before the Joint Sub Registrar Office, Mumbai-1. The condition was that within one year, L.W.3 should complete the sale by paying the sale amount as per Clause 11. L.W.2 left it as it is. Some time later, L.W.4, L.W.6 and L.W.7 came to Mumbai, informed L.W.2 that the property was already developed by family members of high police officials and hence L.W.2 was asked to intervene and to take appropriate action and also execute the sale deed in favour of them. Since L.W.2 was busy with his business in Mumbai, he handed over all necessary documents and informed them hereafter nobody should approach him with regard to the said property. After receipt of the police notice, L.W.2 came to know about the seriousness of the offence and the value of the property now appreciated to several crores. The accused with the aid of police officials have created forged documents and usurped L.W.2's property. He submitted all the relevant documents and filed his written statement in the suits filed by the accused. L.W.2 filed a suit before the Principal District Judge, Chengalpet. As regards the role played by this petitioners, it is for the respondent Police to state about the same. One thing is certain, using A4 position in the police department, A1 carried out registration with ease, using forged documents and impersonators, Al later put up construction, obtained permission and got necessary connection and thereafter let out property on lease. A3 is non other than the daughter of A1 and A4, who is the beneficiary of the property, deriving lease amount, enjoying the fruits of the property, the entire family members of A1 colluded with each other, committed offence of forgery and thereby using the same had cheated the second respondent, L.W.2 and others. Now investigation completed, charge sheet filed, the petitioners to face the trial, put forth their defence during trial. Hence, opposed the quash petition.

7. Learned Public Prosecutor filed a status report and submitted as follows:

> "(i) It is submitted that on receipt of the above complaint through proper channel, on 29.05.2012 a case in Cr.No.233 of 2012 U/s 419, 467, 468, 471, 447 read with 120(B) of IPC @ 417, 419, 467, 468, 471, 447 r/w 120(B) and 34 of IPC and under section 82(c) (d) of Registration Act, 1908 was registered against the accused Subbulakshmi[A-1], Tamilarasi @ Dhanalakshmi [A-2], Yuba T. Reichard [A-3] by the then Inspector of Police, Central Crime Branch, Team XV and investigated.
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> (ii) Further it is submitted that during the

course of investigation in this case, it was discovered that Dhanalakshmi [A-2], suppressing her real name Tamilarasi illegally grabbed the property by creating the above said fake documents. During the investigation, it came to light that the accused Tamilarasi had taken precautions to conceal her identity under a pseudonym Dhanalakshmi, with a view to grab the said property.

(iii) It is submitted that the Petitioners herein have been arraigned as Accused Nos.3 and 4 in the Impugned Charge Sheet. The Petitioner/A4 is the husband of Subbulakshmi [A-1] and the father of Yuba T. Reichard [A-3]. The Petitioner herein, being the erstwhile Additional Director General of Police, using his position and power had influenced Ravi [L.W-3], Chandru [L.W-24] and Sekar [L.W-27] and caused them to cancel the sale agreement executed in favour of Rajaiah [L.W-1] vide Doc.No.3592/2010 on the file of the S.R.O. Neelankarai on 15.07.2010 through Paneerselvam [L.W-28] who was the Sub Registrar of Neelankarai.

(iv) It is submitted that furthermore, Subbulakshmi [A-1] having unlawfully acquired the property belonging to Chandrash M. Kambani [L.W-2] had leased the same to 'M/s. Renault Nissan Technology Business Centre India Private Limited' in an unregistered Lease Agreement with a monthly rent to the tune of INR 1,70,000.00 (Rupees One Lakh Seventy Thousand) and an advance amount of INR 10,20,000.00 (Rupees Ten Lakhs and Twenty Thousand). The said amounts were deposited in the Thiruvanmiyur Branch of Indian Overseas Bank vide Account No. 147201000002821 and as such Subbulakshmi [A-1] is in receipt of unlawful gains with the aid of Yuba T. Reichard [A-3] and the Petitioner herein.

(v) Therefore, it is submitted that the Petitioner herein having aided Subbulakshmi [A-1] in carrying out her illegal actions, using his position and power to cause the sale agreement executed in favour of Rajaiah [L.W-1] to be cancelled by Paneerselvam [L.W-28] and acted in conspiracy with Accused Nos. 1 to 3 is charged under Section 109, 417, 419, 465, 467, 468, 471, 447 of the IPC read with Section 120(B) and Section 34 of the IPC and Section

82(d) of the Registration Act, 1909.

(vi) It is respectfully submit during the course of investigation it was recorded that the Petitioner had misused his official position and coerced Tr.Chandru @ Chandrasekaran [L.W-25], a Police constable served under the Petitioner who had stated in his statement that the Petitioner had contacted him and instructed to arrange S. Ravi [L.W 3] of Mayanoor to cancel the document made in respect of land in Plot No.297 and in his presence both Petitioner and S. Ravi [L.W 3] had a discussion over phone in connection with the cancellation of the above document.

(vii) It is submitted that Sekar [L.W-27] in his statement under Section 161(3) of Cr.P.C has disclosed the role of the Petitioner herein in carrying out the offences in the Impugned Charge Sheet. While Sekar [L.W-27] was the Sub-Registrar of Neelankarai on 17.05.2007, having perused all the documents, had registered a sale deed wherein Dhanalakshmi [A-2], the supposed power agent of Mahendrakumar Naveen Chandra Kambani, conveyed property comprised in Survey Nos. 12/1 & 12/2, Shollinganallur measuring 12,000 Sq. Feet in favour of Subbulakshmi [A-1] vide Doc. No.3052/2007. Subsequently, Ravi [L.W-3], power agent of Chandrash M. Kambani [L.W-2] sale agreement, registered the same property in favour of Rajaiah [L.W-1] and the same was registered as Doc. No. 3679/2008 on the file of S.R.O. Neelankarai on 08.09.2008.

(viii) It is submitted that questioning the subsequent registration of sale agreement between L.W.3 and L.W.1 on the same property, Subbulakshmi [A-1] had called Sekar [L.W-27] via phone in March 2010. Sekar [L.W-27] had responded that the documents filed in support of the sale are not usually examined which prompted Subbulakshmi [A-1] to require Sekar [L.W-27] to meet the Petitioner, her husband, at the office of the Directorate of Vigilance and Anti-Corruption, Greenways Road. In furtherance of the same, Sekar [L.W-27] had met the Petitioner whereby the Petitioner had questioned how a sale deed was registered on a property belonging to them and asked Sekar [L.W-27] to cancel such sale deed. In response Sekar [L.W-27] had stated that the Sub-Registrar cannot cancel a registered deed however, the vendor or purchaser therein could. He further stated that he had been transferred from the S.R.O. Neelankarai and is currently serving in the office of the Inspector General of the Registration Department.

(ix) It is further submitted that the Petitioner had enquired whether Sekar [L.W-27] would cancel the said sale deed if he transfers him back to the S.R.O. Neelankarai for which Sekar [L.W-27] had responded that he is not empowered to do so under the Registration Act and the same can be cancelled by an order of a Court, after which he had left.

(x) It is submitted that Paneerselvam [L.W-28] in his statement under Section 161(3) of Cr.P.C has disclosed the role of the Petitioner herein in carrying out the offences in the Impugned Charge Sheet. Paneerselvam [L.W-28] was serving as the Sub Registrar of Neelankarai from 23.09.2009. On 15.07.2010, while Paneerselvam [L.W-28] was the Sub-Registrar of Neelankarai, he had received a phone call from the Directorate of Vigilance and Anti Corruption whereby he was directed to register a deed cancelling a sale agreement. Consequently, the sale agreement executed by S. Ravi [L.W-3] in favour of Rajaiah [L.W-1] was cancelled vide Doc. No. 3592/2010 on 15.07.2010 (Page 228). It is submitted that Paneerselvam [L.W 28] had further stated that while registering the cancellation deed, S. Ravi [L.W-3] was accompanied by the wife of the Petitioner, Subbulakshmi [A-1] along with some advocates and police officers.

(xi) On careful examination of the statements of the said witnesses, the role of the petitioner with regards to the property in question after the sale of the same are to be proved before the trial court.

(xii) It is further submitted that the Learned Judicial Magistrate, Alandur has rightly taken cognizance against the petitioner vide CC.No.1173/2017. It is submitted that the prosecution has filed the final report on the strength that the impersonation was committed by Dhanalakshmi [A-2] with the association of Subbulakshmi [A-1].

(xiii) It is submitted that the petitioner being a retired police officer, has filed the present petition only with the intention to protract the trial and prevent the trial court from framing the charges.”

8. Considering the submissions and on perusal of the materials it is seen that the petitioners herein are A3/Yuba T.Reichard and A4/Thukkaiandi. A3 after completing her studies, she got a job in USA in the year 1998. From then she is residing there. She married Robert Reichard, a foreign national in the year, 2007 and thereafter obtained U.S. Citizenship. She rarely comes to India to meet her family members. Admittedly, no witness state anything against A3 in any manner. No doubt, A1 is the mother of A3, who claims that she purchased the property from A2, from a close relative of her. Thereafter, she settles the property to her daughter-A3. The settlement was done in the absence of A3. The registered Power of Attorney of A2 in Doc.No.210/2007 was registered on 12.04.2007. A2 claims Power of Attorney was executed by L.W.2's father, registered as Doc.No.210 of 2007 in Sub Registrar Office, Trichy. Based on this power of attorney, a sale deed executed by A2 in favour of A1 in Sub Registrar Office, Neelankarai by document No.3052/2007 on 17.05.2007. Thereafter, a settlement deed was executed by A2 in favour of petitioner/A3 in Doc.No.1665/2008 dated 22.04.2008. The petitioner/A3 thereafter executed a power of attorney in favour of her sister T.Yamini on 22.07.2010, which was revoked on 24.01.2011 and thereafter she executed a power of attorney in Doc.No.141/2011 dated 21.03.2011 in favour of her mother-A1. Thus, A3 appears to be only a name lender and nothing more. The property was developed in the year, 2008 and after completion, in the year 2010, it was occupied by Renault-Nissan Technology and Business Centre India Private Limited and they have been crediting lease amount for the property, which is confirmed by L.W.36-Binu Nair and the amount has been credited to the account of A1, which is confirmed by L.W.30-Suresh, Senior Manager, Indian Bank, Valmeeki Nagar Branch, Chennai. The construction in the property started in the year 2008, thereafter tenancy and the lease. The application for EB permission for building, all dealt by A1. The civil suits are prosecuted by A1 though in the name of A3. Other than A1 using the daughter's name A3, A3 has got nothing to do with the property in any manner. From the year 1998, she is not in India and rarely visits India. Admittedly, during the alleged transactions, she was only in her teens and it was only her mother (A1), who is the fulcrum and force behind the entire transaction and no witnesses have stated anything against the petitioner/A3, who is roped in as though she had abetted the other accused and she benefited from the property as stated above. The petitioner/A3 not benefited. The lease amount credited to the account of A1. Further, her sister Yamini, who

faced a case on similar lines for the adjacent property Plot No.277 and a case in Crime No.315/2012 was registered against her sister and her father both were prosecuted in C.C.No.113/2019. Earlier, this Court on 29.09.2020 quashed the case against them in Crl.O.P.Nos.13791 and 2880 of 2020, almost on the similar lines. As regards the petitioner/A4 he is the father of A3 and husband of A1. Other than marital relationship with A1, he has got nothing to do with the case of A1, who seems to have been active on her own from the year 2007 with her brother's mother-in-law (A2), Power of attorney created in favour of A2 as though it was executed by L.W.2's father, document registered in Doc.No.210/2007 in Sub Registrar Office, Trichy. Thereafter, sale deed executed in Doc.No.3052/2007 dated 17.05.2007 and thereafter she developed the property by putting up construction and she had also executed a settlement deed in favour of her daughter A3 under Doc.No.1665/2008 dated 22.04.2008 thereafter in the year 2010 it was completed, from the year 2011, the property was let out on lease to Excavate support team, who in turn had given to their client M/s. Renault Nissan Technology Business Centre India Private Limited for monthly lease amount. In the meanwhile, L.W.3 along with L.W.6 and L.W.7 and one John approached L.W.2 obtained power of attorney in Doc.No.1314/2007 before the Sub Registrar Office, Mumbai-1 and one of the condition was that as per clause 11, the sale to be concluded within one year. Thereafter it cannot be completed and Power of Attorney cancelled and sent back the advance amount by cheque, which was encashed by L.W.3. From the statement of the witnesses L.W.4 to L.W.7, it is seen that they teamed up together to make profit from the sale of the land of L.W.2, admittedly L.W.2 is well placed in Mumbai, busy with his work and he is not aware about the developments and appreciation of the property in Sholinganallur. Taking advantage of the same, these people tried to exploit the situation. On the other hand L.W.7/Annadurai earlier approached A1 for a settlement, which was not agreeable. Thereafter only the episode of L.W.3 obtaining Power of Attorney from L.W.2 thereafter sale agreement with L.W.1/de-facto complainant commenced. Hence, the complaint itself initiated with a motive. Later L.W.2 on coming to know about the real facts and situation and about the appreciation of the property, he is now pursuing the complaint. L.W.2 coming to know the deceit played by L.W.3, L.W.6 and L.W.7, sale deed executed by L.W.3 in favour of L.W.1, cancelled the Power of Attorney given in favour of L.W.3. He submitted all the necessary required documents including the sale deed document of the year 1967, death certificate of his mother of the year 1980, father of the year 1997, legal heir certificate, certified copy of the power of attorney executed in favour of L.W.2, thereafter revocation of the same, paying back the initial amount received from L.W.2 by way of cheque and the encashment particulars. After the revocation of power of attorney by L.W.2, L.W.3 has nothing to do with the property. Earlier, L.W.3 cancelled sale agreement with L.W.1 on 15.07.2010 by Doc.No.3592/10, L.W.1 has no locus. Be that as it may, now L.W.2 is pursuing the case and he is a witness giving narration of the case and also submitted documents. From the statement of the witnesses and the documents produced, there is no incriminating material found against the petitioner/A4 except for L.W.25, L.W.27 and L.W.28. L.W.25 is said to have instructed by A4 to approach L.W.3 hand over the phone and forced him to come to Chennai to cancel the sale deed. On the contrary L.W.3 does not state anything as regards the petitioner. Hence, the statement of L.W.25 is of no significance. LW.16-Sub Registrar, South Chennai Registration Department, apart from stating that whenever high officials call him for facilitation he used to inform the concern Sub Registrar Office to ensure that the documents are registered without delay. Likewise on 17.05.2007, L.W.16 was called, from the office of the petitioner/A4 requested L.W.16 to inform L.W.27 about the registration of the document. L.W.27 on that day registered the document in Doc.No.3052/2007. Though L.W.27 states that he got promoted and posted in the Head Office of the Registration, he does not state anything about A1 calling him on 17.05.2007, later in the year 2010 A1 said to have approached L.W.27, questioned how subsequent sale agreement executed by L.W.3 in favour of L.W.1 came to be registered and he was forced to cancel the same and thereafter he was asked to meet the petitioner/A4. L.W.27, informed A4, cancellation cannot be done by the registration authority on their own, any sale agreement can be set aside only through Court. This position is well known. L.W.27 already got promoted and transferred to the Head office and he was no more in Sub Registrar Office, Neelankarai. At that time, no prudent man will request or force such action. Likewise other witness is L.W.28. L.W.28 is the Sub Registrar, Neelankarai from 23.09.2009. He states that on 15.07.2010 L.W.3 appeared, filed a cancellation deed document No.3592/2010. At that time, a phone call from the office of the petitioner is said to have been made to L.W.28 for registration and nothing more. Though on two occasions, office of petitioner/A4 is said to have called the Sub Registrar, Neelankarai. There is no other materials. The allegations are far-fetched. Thus apart from these statements, there is nothing against the petitioner. It is known fact that the petitioner as Superintendent of Police in C.B.C.I.D., Chennai. During the period from 1997 he played vital and pivotal role in registration of the cases, monitoring the investigation and monitoring prosecution against former Chief Minister and the Ministers, and closely following the progress of trial in the three Special Courts exclusively formed at that time. Later there was change of Power and scenario. The petitioner/A4 was later transferred frequently and posted to innocuous posts which is well known. Admittedly, the petitioner's name does not find place in complaint and he had been later added. There is considerable amount of delay in the registration of F.I.R. and thereafter filing of the final report, which creates suspicion, doubt and fortifies that he is targeted. In any event taking the entire materials available in the charge sheet, there is no case made against both the petitioners. Further, this Court on a similar situation almost on the identical facts, in Crl.O.P.Nos.13791 and 2880 of 2020 quashed the proceedings against A4 and his yet another daughter Yamini, similarly placed.

9. Thus, looking the case from any angle, this Court finds no reason or justification to continue the proceedings in C.C.No.1173 of 2017 against the petitioners. Further, continuation would only amount to abuse of process of Law. Hence, the proceedings against the petitioners/A3 and A4 alone in C.C.No.1173 of 2017, pending before the learned Judicial Magistrate, Alandur is hereby quashed.

10. Accordingly, these Criminal Original Petitions are allowed. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS-II)

//True Copy//

Sub Assistant Registrar

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To

1.The Judicial Magistrate,
Alandur.

2.Do Through The Chief Judicial Magistrate,
Egmore, Chennai.

3.The Inspector of Police,
Central Crime Branch,
Chennai.

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

+1cc to M/S.S.Anbalagan, Advocate, S.R.No.36667
+1cc to Mr.S.Manuraj, Advocate, S.R.No.36666

Crl.O.P.Nos.2141 of 2018 and 3616 of 2021

GP(CO)
SB(28/06/2022)