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CRL.O.P.No.9412 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.11.2022

CORAM

THE HONOURABLE **DR.JUSTICE G.JAYACHANDRAN**

CRL.O.P.No.9412 of 2019

and

CrI.M.P.No.4951 of 2019

M.Baskar

... Petitioner

Vs.

1.The State of Tamil Nadu,
Rep. by the Inspector of Police,
Central Crime Branch, Team No.1,
Chennai Sub Urban Police,
St.Thomas Mount, Chennai-600 016.

2.T.M.Mahalakshmi (Died)

3.A.E.Asokan

4.Indu

5.T.S.Krishnan

6.Ananthalakshmi

7.Vivek Krishnan

... Respondents

(R5 to R7 are impleaded as per order in CrI.MP.No.8929 of 2019 in CrI.OP.No.9412 of 2019 dated 09.07.2019)

PRAYER: This Criminal Original Petition is filed under Section 482 of Cr.P.C., praying to call for the records pertaining to FIR No.95/2009 dated 11.08.2009 on the file of the first respondent herein.

1/8



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For Petitioner : Ms.N.Jothi for
M/s.D.Sivakumar

For Respondent 1 : Mr.N.S.Suganthan
Government Advocate (Crl. Side)

For Respondent 2 : R2 Died

For Respondents : Mr.R.Prabhakar
3 and 4

For Respondents : No appearance
5 to 7

ORDER

This petition is filed to quash a criminal complaint registered in FIR No.95 of 2009 by the Inspector of Police, Central Crime Branch Team No.1 at Chennai on the complaint given by one Mahalakshmi, wife of T.S.Krishnan and daughter of T.G.Hariharan.

2. The sum and substance of the complaint is that the property in dispute was initially purchased by the father of the *defacto complainant*, Hariharan from one Padma in and around the year 1968. After the demise of her father in the year 1980, the property was inherited by her mother, brother and herself. While so, in the year 1982, she received notice from the



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Commissioner of Urban Land Ceiling, Government of India, identifying 56 cents out of 81 cents of the property is in excess of ceiling limit and it is to be acquired by the State. In the said circumstances, the *defacto complainant's* brother Gowrikandan died in the year 1989 and her mother died in the year 1993. Thereafter, the *defacto complainant* and wife of her deceased brother became the legal heirs of the property. Under such circumstances, on the representation of one A.E.Asokan, son of Mr.K.P.A.Kurup and his wife promised to sell the property for a good price. Believing their words, the *defacto complainant* gave the original documents of the property to them and settled permanently at Bangalore. Whenever she contacted Asokan, there was no proper response. Therefore, she thought fit to sell the property directly without any intermediaries and applied for Encumbrance Certificate. On verifying the Encumbrance Certificate, she found that 25 cents of land been sold by Ashokan as her power agents to various persons and they have approached the Government to revoke the land ceiling proceedings as if they are the owners of the land.



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3. The learned counsel for the petitioner who is the purchaser of the land through the power agents submitted that it is a vicious complaint with malafide intention to extract money after selling the land knowing well the subject matter of acquisition under the Land Ceiling Act. Having sold the property through a valid sale deed on 10.10.2005 and coming to know that the land ceiling proceeding dated 13.03.1990 been revoked vide order dated 22.10.2008, at the instance and efforts taken by the subsequent purchasers, the erstwhile landlord */defacto complainant* with malafide intention to extract money had given a complaint dated 11.08.2009, about ten (10) months after the revocation of the land ceiling proceedings. In fact, when the complaint was lodged, there was an appeal by the State before this Court and pending. The said appeal came to be dismissed in favour of the purchasers on 02.09.2015. Knowing fully well that the subject land was under acquisition vide proceedings dated 13.03.1990 and want to sell the property with the defective title under 2005-06 sale deed. The *defacto complainant* never questioned the acquisition proceedings and silently accepted the same since she sold the property with the defective title to third parties. Only after the revocation of the acquisition proceedings, complaint



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has been given against the petitioner who is a *bonafide* purchaser for valuable consideration.

4. Notice in the quash petition was sent to the *defacto complainant*, the said notice returned with the endorsement died. However, the husband of the *defacto complainant* been informed about the pendency of this quash petition. There is no representation on behalf of the legal representatives of the *defacto complainant*.

5. The learned Government Advocate (Crl. Side) submitted that the complaint alleging breach of trust, cheating, fabricating documents and conspiracy came to be registered on 11.08.2009 and taken up for investigation soon thereafter. This petitioner approached this Court by way of a writ petition and obtained interim stay of investigation in W.P.No.20598 of 2009. The *defacto complainant* as well as the State filed petition to vacate the interim stay order and when the matter came up for final disposal, this Court has disposed the writ petition with liberty to the petitioner to file petition under Section 482 of Cr.P.C. holding that the



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petition to quash FIR invoking Article 226 of the Constitution of India is not maintainable. Hence, the present petition under Section 482 of Cr.P.C has been filed.

6. A reading of the complaint on the face of it indicates that the property inherited by the *defacto complainant* after the death of her father in the year 1980 and death of her mother in the year 1993, was subjected to land ceiling proceedings initiated in the year 1990. With knowledge of the land ceiling proceedings, the *defacto complainant* has admittedly handed over the documents to the third accused /A.Asokan and his wife Indu/ fourth accused to sell the property. The property was sold by them as power agents to the petitioner herein in the year 2005. Obviously, from the year 1994 to 2005, the *defacto complainant* had not chosen to make any efforts to verify whether her property was sold or not. Only after the revocation of the land ceiling proceedings on 22.10.2008, the present complaint has been given as if she trusted Asokan and his wife and gave the documents of the property in the year 1994. Whenever she asked for the progress in the sale proceedings, they gave a vague reply and only in the year 2008 she came to



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know that the property was sold, when she applied for Encumbrance Certificate. Her silence from the year 1994 to 2009 and the order of revocation of land ceiling proceedings on the application made by the subsequent purchasers would clearly show that it is a complaint given with malafide intention to extract money. Having come to know that the property with defective title was sold by her, her agent had subsequently perfected the title of the property. Thus, the complaint filed with malafide intention without any foundation for attracting prosecution is liable to be quashed and is accordingly quashed and the Criminal Original Petition is allowed. Consequently, the connected miscellaneous petition is closed.

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Index:Yes/No
Speaking Order : Yes / No
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DR.G. JAYACHANDRAN, J.

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To:

- 1.The Inspector of Police,
Central Crime Branch, Team No.1,
Chennai Sub Urban Police,
St.Thomas Mount, Chennai-600 016.
- 2.The Public Prosecutor,
High Court, Madras.

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