



Crl.O.P.No.10961 of 2019

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 31.10.2022

CORAM

THE HON'BLE Dr.JUSTICE G.JAYACHANDRAN

Crl.O.P.No.10961 of 2019

and

Crl.M.P.No.5612 of 2019

Kamal Lunawath

... Petitioner

-Vs.-

1.The Inspector of Police,
District Crime Branch,
Kancheepuram,
(Crime No.6 of 2012)

2.Karthikeyan

.. Respondents

Criminal Original Petition filed under Section 482 of Code of Criminal Procedure to call for the entire records pertaining C.C.No.5 of 2019 on the file of the learned Judicial Magistrate No.II, Chengalpattu and quash the same.



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For Petitioners :Mr.S.Ramachandran

For Respondent :Mr.N.S.Suganthan,
Government Advocate (Criminal side)
for R1

Mr.Karthikeyan,
Party-in-person R2

ORDER

This Criminal Original Petition has been filed to quash the criminal complaint against the petitioner, who is arrayed as A3 in the C.C.No.5 of 2018 on the file of the learned Judicial Magistrate No.II, Chengalpattu.

2. On reading the complaint and perusing the material relied to lay the final report against this petitioner, this Court finds that the property which belongs to one Saroja, has been fraudulently sold to this petitioner by one Ekambaram, who had derived the title to one Arumugam. Alleging that this petitioner, Ekambaram and Arumugam has colluded and grabbed



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the property, the complaint has been given and that has lead to the investigation and the filing of final report.

3. The learned counsel for the petitioner would submit that the petitioner is an innocent purchaser and immediately after enquiry conducted by the DRO, pursuant to the registration of the complaint in Crime No.6 of 2012, this petitioner has canceled the sale deed executed in his favour. The deed of cancellation executed by this petitioner dated 24.11.2014 and the deed of cancellation executed by Ekambaram on 03.07.2015 were taken note by the DRO, who had passed proceedings on 22.09.2018. As on date, the property neither stands in his name or in the name of his vendor.

4. The learned counsel for the petitioner has also brought to the notice of this Court that pursuant to the cancellation of the deeds, the Revenue Inspector has addressed the Tahsildar to restore the name of the original Pattadhar in the revenue records and the said process is under progress. As far as this petitioner is concerned, being innocent purchaser



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and having come to know about the fraudulent transaction, had canceled the deeds, hence, there need not be any criminal prosecution against him.

5. The *de facto* complainant is present before this Court today and submits that the sale deeds in favour of the petitioner stands canceled and the same is taken note by the Revenue Authority. However, the Patta is not so far restored in his name, in view of the non-cooperation of the other accused.

6. Taking note of the fact that obviously the petitioner herein is an *bona fide* purchaser and he has canceled the sale deed once he was put to notice about the fraudulent transaction, this Court is of the view that the actual perpetrator of crime namely Arumugam and Ekambaram are the persons, who have to face the trial and not the petitioner.

7. Therefore, this Criminal Original Petition is allowed. Accordingly, the C.C.No.5 of 2019, on the file of the learned Judicial Magistrate No.II, Chengalpattu is quashed. However, the trial as against



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the other accused shall go on. Taking note of the fact that the case is pending since 2012, the trial Court shall complete the trial as expeditiously as possible. Consequently, connected miscellaneous petition is closed.

31.10.2022

Speaking/Non-speaking order

Index: Yes/No

Internet : Yes/No

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To

1.The Judicial Magistrate No.II Court,
Tindivanam

2.The Public Prosecutor,
High Court, Madras.



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Dr.G.JAYACHANDRAN.J.,

nsa

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