



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.06.2022

CORAM:

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

CRL.O.P.No.15404 of 2020

and

CrI.MP.No.5868 of 2020

C.Srinivasan

... Petitioner / Accused

Vs.

1. The State

Rep by the Inspector of Police,
District Crime Branch(DCB),
Krishnagiri District
(crime No.7 of 2020)

...1st Respondent / Complainant

2. J.Selvam

...2nd Respondent / Defacto Complainant

PRAYER: Criminal Original petition is filed under Section 482 of Criminal Procedure Code, to call for the records pertaining to the FIR in Crime No.7 of 2020 on the file of the first respondent police and quash the same.

For Petitioner : Mr.V.Karthik,
Senior Counsel
For Mr.P.Dinesh Kumar

For Respondents
For R1 : Mr.A.Gopinath,
Government Advocate(crl.side)

For R2 : No appearance

ORDER

This Criminal Original Petition has been filed to quash the FIR in Crime No.7 of 2020 on the file of the first respondent police registered for the offences under Sections 419, 420, 471, 294(b), 506(i) of IPC as against the petitioner.

2. The case of the prosecution is that the defacto complainant purchased the subject matter property on 09.07.2019



from SIDCO and after the said purchase, he started running CNC Turning unit in the said premises in the name and style of M/s.Vijay Engineering. While being so, due to financial crisis the defacto complainant approached the petitioner for seeking for a loan to a tune of Rs.85 lakhs for which the petitioner asked the defacto complainant to execute a sale deed in his name, then only he can give money to him. It is the further allegation of the defacto complainant that he again borrowed a sum of Rs.5 lakhs in the month of January 2020 and a further sum of Rs.31 lakhs, in total, he borrowed a sum of Rs.1 crore and 7 lakhs from the petitioner and for which he executed a name sake sale deed on 11.10.2019.

2.1 It is the further case of the defacto complainant that as per oral agreement between himself and the petitioner that within one year, the defacto complainant must repay the loan amount, after which the accused must reconvey the property. Since the defacto complainant was not able to repay the borrowed money, on 25.03.2020, he approached the petitioner for sale of the subject property to third party and take back his borrowed money and the remaining sale consideration may be given to him. For which, the petitioner said he himself will hold the property and pay the remaining amount and further he sought a signature. Immediately, the defacto complainant signed in a letter and informed him that for signing the name transfer petition before notary public he will sign only after receiving the payment from the petitioner. Thereafter, the defacto complainant several times contacted and requested the petitioner for payment, but he evaded the promise. Suddenly on 18.05.2020, the petitioner came to the office of the defacto complainant and threatened that he purchased the industry and asked the defacto complainant to leave the industry or else he will kill him using rowdy elements. Therefore, the defacto complainant sought for a criminal action against the petitioner herein for redeeming the property from him and also for cancellation of the sale deed executed in favour of the petitioner.

3. Mr.V.Karthik, Senior Counsel appearing for the petitioner would submit that there was no oral agreement between the petitioner and the second respondent. The petitioner purchased the subject property for the total sale consideration of Rs.1,32,00,000/- Even according to the complainant, he received a sum of Rs.1,07,00,000/- till the month of March 2020. Thereafter, the second respondent executed sale deed on 11.10.2019. After period of one year, the present complaint has been lodged, that too with the above said allegations.

4. Heard, Mr.V.Karthik, Senior Counsel appearing for the petitioner and Mr.A.Gopinath, Government Advocate(crl.side) appearing for the first respondent. Though notice was served to



the second respondent, no one appeared on behalf of the second respondent in person or through pleader.

5. The case of the second respondent is that after execution of sale deed for the total sale consideration of Rs.25 lakhs, the petitioner assured that after repayment of entire amount, he would cancel the sale deed. However, the second respondent did not even return any amount so far. Further, the second respondent never disputed the execution of sale deed in favour of the petitioner. However, he disputed the signature found in the letter issued in the name of the second respondent to the SIDCO for transfer of name in the allotment order.

6. It is also seen that on the request of the second respondent, name has been already transferred in the name of the petitioner in respect of the subject property comprised in plot Nos.38 and 55. Thereafter, the second respondent objected the same and as such, by the order dated 22.09.2020, the Tamilnadu Small Industries Development Corporation Limited cancelled the name of the petitioner in respect of the plot Nos.38 and 55 at SIDCO Industrial Estate(New), Hosur. It was challenged by the petitioner before this Court in WP.No.14489 of 2020 and this Court by order dated 04.02.2021 set aside the order of cancellation of transfer of ownership and observed as follows:

"4. Though a notice has been served on the fourth respondent and the name is also printed in the cause list, there is no representation for the fourth respondent. It appears that this transfer has been made after a request made to the third respondent SIDCO for transferring the land in favour of the petitioner. "No Objection Certificate" was also obtained by the third respondent for effecting transfer and thereafter, the sale deed also executed before the Sub Registrar, Hosur in Document No.17505 of 2020. The fourth respondent has not preferred any criminal complaint as against the petitioner for the alleged forgery claimed by the fourth respondent and similarly they have not made any objections with regard to the sale deed which has been registered before the Sub Registrar Office. In the absence of any Criminal Complaint and without any steps for cancelling the sale deed, the respondent cannot proceed to cancel the transfer order and therefore, the impugned order is liable to be set aside.

5. Accordingly, it is set aside and the petitioner is permitted to occupy the plot and the transfer order dated 19.03.2020 issued by the third respondent is restored. The writ petition is ordered accordingly. No costs. The connected miscellaneous petition is closed."



7. Further, this Court permitted the petitioner to occupy the plot which was transferred in his favour. After purchase of the subject property, the entire revenue records were mutated in favour of the petitioner herein such as electricity service connection and other revenue records. In fact, the petitioner is in possession and enjoyment of the subject property from the date of his purchase i.e. on 11.10.2019. That apart, on perusal of the entire F.I.R., it is seen that the entire claim of the second respondent is civil dispute and if at all the second respondent has any claim over the petitioner, he ought to have filed civil suit for appropriate relief. Further, the case of the second respondent is that after having been executed the registered sale deed in favour of the petitioner and as per oral agreement, the petitioner failed to reconvey the subject property. Therefore, the entire allegations are civil in nature and it does not constitute any offence as alleged by the prosecution under Sections 419, 420 and 471 of IPC. As such, the F.I.R. cannot be sustained as against the petitioner and it is liable to be quashed.

8. Accordingly, the entire proceedings in Crime No.7 of 2020 on the file of the first respondent police registered for the offences under Sections 419, 420, 471, 294(b), 506(i) of IPC as against the petitioner is quashed and this criminal original petition is allowed. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS III)

/True Copy//

Sub Assistant Registrar

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To

1. The Inspector of Police,
District Crime Branch(DCB),
Krishnagiri District.
2. The Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

CRL.O.P.No.15404 of 2020
and Crl.MP.No.5868 of 2020

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NSK/01/07/2022