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CrI.O.P.No.18382 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.11.2022

CORAM

THE HON'BLE **Dr.JUSTICE G.JAYACHANDRAN**

CrI.O.P.No.18382 of 2019

and

CrI.M.P.Nos.9313 & 9314/2019 & 939/2020

V.Kunijitham

... Petitioner

Vs.

1.State Rep.by
The Inspector of Police,
Cuddalore OT Police Station,
Cuddalore.
Crime No.667 of 2016

2.Dhanabakiyam

3.Venkataramakrishnan

... Respondents

Prayer:- Criminal Original Petition has been filed under Section 482 of Cr.P.C., praying to call for the records and quash the proceedings in C.C.No.81 of 2018 on the file of the learned Judicial Magistrate-II, Cuddalore in so far as the petitioner in concern.

For Petitioner : Mr.R.Suresh Babu

For R1 : Mr.N.S.Suganthan



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For R2 Government Advocate (Crl.Side)
: Mr.R.Karthikeyan

ORDER

This Criminal Original Petition is filed to quash the criminal case pending on the file of the Judicial Magistrate No.II, Cuddalore in C.C.No.81 of 2018.

2. The sum and substance of the complaint is that the land owned by the *de facto* complainant has been sold to the third parties by the accused persons by fabricating documents and thereby had committed the offence under Sections 463, 420 & 468 I.P.C.

3. The petitioner herein, who is arrayed as 6th accused, submits that he is the bonafide purchaser from the other accused and on a perusal of 'A' register, he came to know that the other accused has purchased the property from the petitioner and had valid title therefore, he had purchased the property and plot out the same and sold it to several parties. This complaint has been filed on 08.08.2013 after several years of transaction between him and the other accused who are the vendors of



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the property, relying upon the sale deed dated 27.12.1999 and the death certificate of Elumalai dated 30.11.1999 and legal heir certificate of Elumalai issued by the authorities as well as the entries in the 'A' Register.

4. The learned counsel for the petitioner would submit that based on these documents, the petitioner purchased the property bonafidely believing that his vendor has clear title and if at all any fraudulent transaction is made out, only the vendors are liable. Further, he would submit that the complaint filed belatedly has been taken for investigation and Final Report was filed after a lapse of more than 20 years questioning the transaction held in the year 1999.

5. However, from the Final Report, this Court finds that the property in dispute held by Muthukumarasamy, the father of the *de facto* complainant has not been alienated by him or his legal heirs at any point of time. While so, based on some fake entry in the 'A' Register, sale deed has been created and sold it to third parties. This petitioner has purchased the same on the strength of Power of Attorney deed executed on



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08.12.1995 in favour of one Ravichandran, S/o. Nataraja Achari given by the other legal heirs of the Nataraja Achari. This petitioner has purchased the property vide sale deed dated 27.12.1999 and plot out the property under the name of Mahalakshmi Nagar. Though the petitioner claims that he is a bonafide purchaser, obviously he has not verified the encumbrance certificate and only relied upon 'A' register. Therefore, it is premature to consider the case under Section 482 of Cr.P.C., to declare that the petitioner is a bonafide purchaser. The disputed facts are triable in nature.

6. Hence, this Criminal Original Petition is dismissed. Consequently, the connected Criminal Miscellaneous Petitions are also dismissed. If the petitioner approaches the trial Court with dispensed with petition for his personal appearance, the trial Court may consider the same in accordance with law.

10.11.2022

rpl
Index: Yes/No
Speaking Order/Non Speaking Order

To

1. The Judicial Magistrate-II, Cuddalore.

2. The Inspector of Police,

4/6



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Cuddalore OT Police Station,
Cuddalore.

3.The Public Prosecutor,
High Court of Madras,
Chennai.



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Dr.G.JAYACHANDRAN, J.

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