



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 01.03.2022

PRONOUNCED ON : 22.03.2022

CORAM

THE HON'BLE Mr. JUSTICE G.CHANDRASEKHARAN

CRL.O.P.No.23044 of 2021

D.Karthirvel

...Petitioner/3<sup>rd</sup> Party

Vs.

1. The Deputy Superintendent of Police,  
Central Bureau of Investigation,  
Anti Corruption Branch,  
IIIrd Floor, ShastriBhavan,  
No.26, Haddows Road,  
Nungambakkam, Chennai. ...1<sup>st</sup> Respondent/Complainant
2. J.Saravanan
3. S.LakshmiDevi ...Respondents 2 & 3/Accused

Prayer:- Criminal Original Petition is filed under Section 482 of Code of Criminal Procedure, to modify the order in Crl.M.P.No.9492 of 2019 in C.C.No.5 of 2017 dated 22.11.2019 passed by the learned XI Additional Special Court, Chennai, to return the original sale deed registered as Document No.1512 of 2005 dated 21.03.2005 on the file of SRO, Virugambakkam, Chennai, to the petitioner herein.

For Petitioner : Mr.M.Arunachalam

For Respondents : Mr.K.Srinivasan  
Special Public Prosecutor for R1  
Ms.B.Elakkiya  
for R2 and R3 (No appearance)

ORDER

This Criminal Original Petition is filed to modify the order in Crl.M.P.No.9492 of 2019 in C.C.No.5 of 2017 dated 22.11.2019 passed by the learned XI Additional Special Court, Chennai.



2.This Crl.M.P.No.9492 of 2019 was filed by the petitioner for the return of original sale deed dated 21.03.2005, registered as document No.1512 of 2005 at SRO, Virugambakkam, Chennai.

WEB COPY

3.It is submitted by the counsel appearing for the petitioner that petitioner is a third party to the criminal case in C.C.No.5 of 2017. The property in No.F1, First floor, Plot No.22, New No.24, Venkatesh Nagar, Virugambakkam, Chennai, belongs to the second respondent. Petitioner entered into a sale agreement to buy this property on 06.05.2015. The third respondent, wife of second respondent under took to execute the sale deed and hand over the original title deeds on payment of the sale consideration of Rs.75,00,000/-. Petitioner had paid the entire sale consideration to the bank, where the property was mortgaged. After the discharge of loan, when he approached the bank for return of document, he was informed that the documents had been seized in RC 45 (A) / 2015 / CBI / ACB / Chennai. He had repaid the entire bank loan. No due certificate was also issued by the bank. However, the sale could not be completed, because of the litigation and non availability of original document. Thus, the petition was filed.

4.The respondent objected the petition alleging that respondents 2 and 3 had availed bank loan for the purpose of business and utilised for a different purpose, thereby, caused a loss of Rs.397.06 lakhs/- to the Oriental Bank of Commerce. The documents sought by the petitioner are required for the purpose of proving the case against the respondents 2 and 3. Petitioner can obtain certified copy and proceed to register the sale.

5.On considering the rival submissions, the learned XI Additional Special Judge, Chennai, directed return of the original sale deed aforesaid after substituting the certified copy and furnishing bank guarantee for Rs.2,00,000/-. It was also ordered that the sale deed should be executed within 15 days from the date of receipt of the original documents, failing which petitioner would lose the bank guarantee of Rs.2,00,000/-. Challenging the said condition, this petition is filed.

6.Considered the rival submissions and perused the records.

7.The learned counsel for the petitioner submitted that the condition imposed by the Court is onerous condition. Petitioner had already paid entire amount due to Oriental Bank of Commerce. The bank also issued no due certificate. Thus, the loan transaction covered in the case in C.C.No.5 of 2017 was paid and therefore, the original documents should be returned to the petitioner for registering the sale deed. It is not disputed by the respondent that petitioner had repaid the entire loan



amount. The sale agreement between the petitioner and second respondent was entered into on 06.05.2015. In view of the repayment of the loan, this Court is of the view that, for proving the charges against the respondents 2 and 3, the aforesaid original sale deed is not necessary. Registration or certified copy can be used in the place of original sale deed. Though, the learned XI Additional Special Judge, Chennai, has ordered return of original sale deed, imposed condition that petitioner should furnish bank guarantee along with other conditions which are not onerous and not necessary. Therefore, the condition in Crl.M.P.No.9492 of 2019 in C.C.No.5 of 2017 dated 22.11.2019 passed by the learned XI Additional Special Judge, Chennai, is set aside and modified to the effect that the original sale deed dated 21.03.2005 is ordered to be returned to the petitioner after substituting it with registration or certified copy. However, the sale in favour of the petitioner is subject to the right of the first respondent to proceed against the property under Section 18-A of Prevention of Corruption Act.

8. Accordingly, Criminal Original Petition in Crl.O.P.No.23044 of 2021 is allowed as indicated above and the condition in Crl.M.P.No.9492 of 2019 in C.C.No.5 of 2017 dated 22.11.2019 passed by the learned XI Additional Special Judge, Chennai, is set aside.

Sd/-

Assistant Registrar (CS-VI)

//True Copy//

Sub Assistant Registrar

ep

To

1. The XI Additional Special Court,  
Central Bureau of Investigation,  
Chennai.
2. The Public Prosecutor,  
High Court of Madras.
3. The Deputy Superintendent of Police,  
Central Bureau of Investigation,  
Anti Corruption Branch,  
IIIrd Floor, Shastri Bhavan,  
No.26, Haddows Road,  
Nungambakkam, Chennai.



+1cc to Mr.K.Srinivasan, Special Public Prosecutor for CBI  
Cases, SR. No. 19078

+1cc to Mr.M.Arunachalam, Advocate SR. No.19453

WEB COPY

CRL.O.P.No.23044 of 2021

NMI (CO)  
PR (20/04/2022)