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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.02.2022

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THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

CRL.O.P.NO.25784 OF 2021

A.H.Haji Muhammed

...Petitioner

Versus

1.State of Tamil Nadu,
Inspector of Police,
Anti Land Grabbing Wing,
District Crime Branch,
Nagapattinam District.

2.Mohamed Ali.M

...Respondents

Prayer : This Criminal Original Petition is filed under Section 482 of Criminal Procedure Code praying to call for the records and quash the case against the petitioner in C.C.No.619 of 2021 on the file of the Judicial Magistrate No.1, Nagapattinam.

For Petitioners : Mr.K.Ayub Khan

For Respondent-1 : Mr.E. Raj Thilak
Additional Public Prosecutor

For Respondent-2 : Mr.M.G.Abdul Mujeeb

O R D E R

This petition has been filed to call for the records in C.C.No.619 of 2021 on the file of the Judicial Magistrate No.1, Nagapattinam and quash the same.

2. The case of the prosecution as per the 2nd respondent is that when he was in Malaysia, executed a General Power of Attorney dated 22.07.2009 in favour of one Nasurullah/A1, as his Power Agent to manage his properties. After coming to know that his Power Agent was acting contrary to his Will, he was constrained to cancel the said General Power of Attorney during the year 2012. On verification of the documents, he came to know that A1 to A3 colluded together and created forged documents, using the same, sold one of his properties to one



Regina Begum. Subsequently, he came to know that his signature was forged to execute the Power of Attorney in favour of the said Nasarullah. Hence, the de-facto complainant filed a complaint against the petitioner and FIR was registered in Crime No.01 of 2020 on the file of the first respondent- Police. The first respondent-Police filed a final report, vide C.C.No.619 of 2021 before the Judicial Magistrate No.1, Nagapattinam for the offences under Sections 406, 420, 465, 468, 471 and 120(B) of I.P.C.

3. The learned counsel for the petitioner submitted that the petitioner is no way connected with the alleged offence. The complaint was lodged only against the person, who created forged document and not against the innocent power agent of the purchaser.

4. The case is still at the stage of trial. By passage of time, the petitioner/A3 and the second respondent/de-facto complainant have decided to bury their hatchet and compromise the dispute amicably among themselves.

5. The Affidavit dated 20.01.2022 has been filed by the 2nd respondent/de-facto complainant before this Court. In the affidavit, it has been stated as follows:

"2. I have given complaint against one Mr. Nasuralla the first accused herein for forging my signature in a power of attorney document and by using the forged document my property was sold to his daughter, Mrs. Regina Begam, the second accused herein, and to the petitioner's principle Mr.Muhammed Suhali.

3. I state that after knowing the registration of FIR against the petitioner, the petitioner approached me and had explained the fact that he is under impression that the A-1 Nasuralla is the power of attorney holder of me and I have given the authority to execute the sale deed on behalf of me. His principal is the innocent purchaser, himself and this principal have no knowledge about the forged power power of attorney. Moreover, they are asked me to execute the Deed of Ratification to perfect their title with very same consideration of the sale proceeds.

4. I state that after fully satisfied with the representation of the petitioner and no fault on either the petitioner or his principal, I have executed the Deed of Ratification dated 18.11.2021 on consideration of Rs.4,95,000/- in favour of petitioner's



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principal Mr.Muhammed Suhail and the same was registered as Document No.2483 of 2021 before the Joint-II Sub-Registrar Joint, Myladuthurai.

I have no objection to quash the case against the petitioner/Accused-3 in C.C.No.619 of 2021 for offences U/s.420, 465, 468, 471 and 120(B) IPC on the file of the Judicial Magistratae No.1, Nagapattinam."

The 2nd respondent and petitioner/A3 present through Video conferencing. This Court also enquired both the parties and was satisfied that the parties have come to an amicable settlement between themselves.

6. On 27.01.2022, the second respondent / defacto complainant was summoned by one Vijayalakshmi, Sub Inspector of Police of the first respondent Police. The second respondent / defacto complainant appeared and gave a letter for withdrawal of complaint as against the petitioner/A3 alone, which is conformity to the above said affidavit.

7. Under such circumstances, no useful purpose will be served in keeping the case pending, even though, the offences involved are not compoundable in nature. In the light of the guidelines given by the Hon'ble Supreme Court reported in 2017 9 SCC 641-(Parbathbhai Aahir @ Parbathbhai Vs. State of Gujrath), and after exercising due caution as advised by the Hon'ble Supreme Court in The State of Madhya Pradesh v. Dhruv Gurjar and Another reported in (2019) 2 MLJ Cr1 10, this Court in exercise of its jurisdiction under Section 482 Cr.P.C., quashes the case as against the petitioner/A3 alone in C.C.No.619 of 2021, pending on the file of the learned Judicial Magistrate No.1, Nagapattinam.

8. This Criminal Original Petition stands allowed and as a sequel, the proceedings in C.C.No.619 of 2021, pending on the file of the learned Judicial Magistrate No.1, Nagapattinam, is quashed as against the petitioner/A3 alone and the terms of affidavit shall form part and parcel of this order.

Encl.: Xerox copy of the Affidavit

Sd/-
Assistant Registrar(CCC)

// True Copy //

Sub Assistant Registrar

srn



To

1.The Judicial Magistrate No.1,
Nagapattinam.

2.The Chief Judicial Magistratae,
Nagapattinam.

3.The Inspector of Police,
Anti Land Grabbing Wing,
District Crime Branch,
Nagapattinam District.

4.The Public Prosecutor,
High Court, Madras.

CrI.O.P.No.25784 of 2021

PCH (CO)
RVM(07/03/2022)