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Crl.OP.No.31553 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.12.2022

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THE HONOURABLE MR. JUSTICE G.CHANDRASEKHARAN

Crl.O.P.No.31553 of 2022
& Crl.M.P.Nos.19309 & 19310 of 2022

Premkumar

...Petitioner

Vs.

1.State by

Inspector of Police,
Central Crime Branch, EDF-II, Team IV
Vepery, Chennai – 7.

2.K.Parasmal Sharma

... Respondents

PRAYER: This Criminal Original Petition is filed under Section 482 of Cr.P.C.,

a)to stay all further proceedings of the case in CC No.96 of 2022 on the file of the learned Special Magistrate for exclusive trial of CCB, CBCID cases, Egmore, Chennai – 600 008.

b)To dispense with the personal appearance of the petitioner for his appearance for the case in CC No.96 of 2022 on the file of the learned Special Magistrate for exclusive trial of CCB, CBCID cases, Egmore, Chennai – 600 008.

c)To call for the records of the case in CC No.96 of 2022 on the file of the learned Special Magistrate for exclusive trial of CCB, CBCID cases, Egmore,



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Chennai – 600 008 and quash the same as against the petitioner.

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For Petitioner : Mr.T.Dasarathan
For Respondents : Mr.S.Santhosh (For R1)
Government Advocate(Criminal side)

ORDER

This Criminal Original Petition has been filed to call for the records of the case in CC No.96 of 2022 on the file of the learned Special Magistrate for exclusive trial of CCB, CBCID cases, Egmore, Chennai – 600 008 and quash the same.

2.The learned counsel for the petitioner submitted that petitioner is only a power agent of one Baskaran Nayar who was allotted the property that is land and building bearing Plot No.Q-217 New.No.5, “Q” block, Kannadasan street, M.M.D.A. colony, Arumbakkam, Chennai by the Tamil Nadu Housing Board as per his allotment letter No.AS2/10730/78 dated 21.06.1979. Petitioner is only a power agent of Baskaran Nayar. In pursuance of the power of attorney deed executed on 14.03.2008, in his capacity as a power agent, he executed the sale deed in favour of one E.Ramasubbu on 21.05.2008. Thereafter, E.Ramasubbu and defacto complainant K.Parasmal Sharma had entered into sale agreement dated 04.08.2022. Petitioner has no connection whatsoever in the sale agreement



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executed between E.Ramasubbu and K.Parasmal Sharma However, he is also implicated as accused in this case. Therefore, this petition.

3.The learned Government Advocate (Criminal side) submitted that Baskaran Nayar is dead and no more. As per the statement of one Annadurai, he paid money to Baskaran Nayar for the sale of the property. Since Baskaran Nayar had not executed the sale deed, he filed suit in O.S.No.2171 of 2003 on the file of City Civil Court, Chennai against Baskaran Nayar and Tamil Nadu Slum Clearance Board and got a favourable judgment in his favour on 22.03.2006. Instead of executing the sale deed in his favour, Baskaran Nayar had executed the power of attorney deed in favour of Prem Kumar. Prem Kumar in turn had sold the property to Ramasubbu. Therefore, he again filed the suit in O.S.No.2733 of 2019 and that is pending. Baskaran Nayar and Prem Kumar had colluded and cheated him.

4.Considered the rival submissions and perused the records.

5.In the light of the submission made by the learned counsel appearing for



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the parties, allegations made in the First Information Report, the final report especially the statement of Annadurai, it is seen that the property was allotted to Baskaran Nayar by Tamil Nadu Housing Board. Annadurai paid money to Baskaran Nayar for the purchase of the property. Since, Baskaran Nayar had not executed sale in his favour, Annadurai filed suit in O.S.No.2171 of 2003 for the sale of the property. On 22.03.2006, City Civil Court passed judgment and decree in his favour directing Baskaran Nayar to execute the sale deed in his favour and on his failure, TNHB to execute the sale deed. He also filed E.P.No.2769 of 2007 for enforcing the decree. Meanwhile Baskaran Nayar had executed a power of attorney deed in favour of petitioner Prem Kumar and he in turn sold the property to E.Ramasubbu. Against that, the suit in O.S.No.2733 of 2019 filed and it is pending. Meanwhile E.Ramasubbu entered into sale agreement with second respondent on 04.08.2008 and received a sum of Rs.25,00,000/-. Therefore, this complaint.

6.From the materials available, we cannot say that petitioner has no role in the sale transaction in favour of E.Ramasubbu in connivance with Baskaran Nayar. Since, there are materials to frame charges, the learned trial Judge had



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framed appropriate charges against the petitioner and other accused and proceeded with the trial. Now it is reported that cross examination of P.W.2 is pending. In such circumstances, this Court is not inclined to concede to the request of the petitioner for quashing of the case in C.C.No.96 of 2022 on the file of the learned Special Magistrate for exclusive trial of CCB, CBCID cases, Egmore, Chennai.

7. Accordingly, this Criminal Original Petition is dismissed. Consequently, connected miscellaneous petitions are closed.

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Index : Yes / No
Speaking / Non Speaking order
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G.CHANDRASEKHARAN,J.

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To

1. Inspector of Police,
Central Crime Branch, EDF-II, Team IV
Vepery, Chennai – 7.
2. The Public Prosecutor,
High Court of Madras, Chennai.

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