

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 15.12.2022

CORAM :

THE HONOURABLE MR. JUSTICE **V.SIVAGNANAM**

Crl.R.C.No.1582 of 2022
and
Crl.M.P.No.19011 of 2022

Vijayabaskar

.. Petitioner

Vs.

State represented by
The Inspector of Police,
CCB, Forgery Wing,
Team-33, Vepery,
Chennai-600 007.
(Crime No.281 of 2019)

..Respondent

PRAYER : Criminal Revision Case has been filed under sections 397 read with 401 of Criminal Procedure Code to call for the records and set aside the order in Crl.M.P.No.2093 of 2022 in C.C.No.326 of 2021 on the file of the Judicial Magistrate Court No.I, Alandur by order dated 22.11.2022.

For Petitioner : Mr.M.Suresh

For Respondent : Mr.V.Meganathan
Government Advocate (Crl.Side)

ORDER

This Criminal Revision Case is filed challenging the impugned order passed in Crl.M.P.No.2093 of 2022 in C.C.No.326 of 2021 dated 22.11.2022, on the file of the learned Judicial Magistrate No.1, Alandur.

2. The learned counsel for the petitioner contended that the petitioner is arrayed as A2 in C.C.No.326 of 2021. He is a land broker. The charge sheet has been filed for the offence under Sections 120(b), 406, 420 r/w.34 and 506(i) I.P.C., as against the accused. Hence, the petitioner has filed a petition in Crl.M.P.No.2093 of 2022 to discharge him from the said case. The trial Court without considering the materials placed on record dismissed the petitioner by order dated 22.11.2022. He further contended that the *de facto* complainant's husband has entered into a partnership agreement with the 1st accused / Ishwant Singh and thereafter, they have entered into a Memo of Deposit of the title deed and obtained loan from the bank. This petitioner is neither as a partner to the agreement nor as a party to the Memo of deposit of the title deed entered

by the parties. He never submitted any application to the bank for loan and never got profit in this transaction. Hence, the impugned order is legally unsustainable and liable to be set aside and the petitioner should be discharged from the above said offences.

3. The learned Government Advocate (Crl.Side) for the State supported the impugned order and further contended that the petitioner even though a land broker, he profited the transaction. Whether he participated with the knowledge or not has to be decided after let in evidence. For framing of charge, the trial Court has to see only the *prima facie* case is available for trial. Therefore, there is no valid ground to interfere with the order passed by the learned Judicial Magistrate and pleaded to dismiss the same.

4. In the light of the above submissions made by the parties and on a perusal of the records, it is seen that the respondent police registered a case against the accused in Crime No.281 of 2019 for the offence punishable under Sections 120(b), 406, 420 r/w.34 and 506(i)

I.P.C. After completion of investigation, Final Report has been filed, which was taken on file by the learned Judicial Magistrate No.1, Alandur in C.C.No.326 of 2021. This petitioner is cited as 2nd accused. This petitioner filed a petition to discharge him from the offence as he is only a land broker and he was not the partner to the partnership deed executed by the *de facto* complainant's husband [Paramasivam] and the 1st accused and never participated in the Memo of deposit of title deed with regard to the mortgage of land with the bank.

5. According to the petitioner, he never got any profit in the said transaction and he had acted only as a land broker and no offence has been made out against him.

6. On a perusal of the records, it reveals that the allegation as against this petitioner is that, he is the person, who introduced the *de facto* complainant and her husband to the accused and participated in the transaction, even though he never be the party to the documents. There is a *prima facie* case for trial. Only during the trial, it can be decided

whether the participation of the accused is there and whether he profited in the said transaction. At that stage the Court is not expected to inquire whether there is sufficient ground for conviction of the accused. Hence at the stage of framing of charge, the Court has to be satisfied only *prima facie* about the existence of sufficient grounds for prosecuting against the accused. The Hon'ble Supreme Court in ***Niranjan Singh Vs. Jitendra (AIR 1990 SCC 1962)*** ; and ***Sanjay Dutt Vs. State [(1994)5 SCC 410]***, ***State Vs. Bangarappa and others (AIR 2001 SCC 222)*** like various cases settled the legal position with regard to framing of charges and clearly stated that while framing the charge, the trial Court has to consider the material produced by the prosecution and to see whether the allegations *prima facie* is constituted for trial.

7. Therefore, I find no irregularity or illegality in the order passed by the trial Court and there is no merit in the ***Criminal Revision Case and the same stands dismissed***. Consequently, the connected Criminal Miscellaneous Petition is also dismissed.

15.12.2022

Internet : Yes/No

Index: Yes/No

rpl

To

1. The Judicial Magistrate Court No.I, Alandur.

2.The Inspector of Police,
CCB, Forgery Wing,
Team-33, Vepery,
Chennai-600 007.

3. The Public Prosecutor,
High Court, Madras.

V.SIVAGNANAM, J.

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