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Crl.R.C.No.1109 of 2014

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 29.06.2022

CORAM :

THE HONOURABLE Dr. JUSTICE **G.JAYACHANDRAN**

Crl.R.C.No.1109 of 2014

A.Chidambaram

.. Petitioner

Vs.

1.The Superintendent of Police,
Land Grabbing,
Kancheepuram.

2.The Inspector of Police,
District Crime Branch,
Kancheepuram
(Crime No.54 of 2013)

3.Rajagopal

[Impleaded as proposed 3rd respondent as per the
order of this Court made in Crl.M.P.No.1/2014
in Crl.R.C.No.1109/2014]

4.S.Ramesh

5.S.Venkataraman

6.M/s.Erasma Builders and Developers Pvt.Ltd.,
Rep.by its Authorised Signatory
Mr.N.Lakshmanan & Mr.K.K.Viswanathan,
No.1E, Jhandewalan Extension,
Naaz Cinema Complex, New Delhi.



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[Impleaded as proposed respondents /
respondents 4 to 6 as per the order of this Court made
in M.P.No.1/2015 in Crl.R.C.No.1109/2014 ..Respondents

PRAYER : Criminal Revision Case has been filed under sections 397 read with 401 of Criminal Procedure Code to set aside the order dated 03.09.2014 passed by the judicial Magistrate II, Chengalpattu in Crl.M.P.No.1674 of 2014.

For Petitioner : Mr.R.Sagadevan

For Respondents : Mr.N.S.Suganthan
Govt.Advocate(Crl.Side) for R1 & R2

: Mr.K.Sampathkumar for R3

: No appearance for R4

: Mr.J.Arul Prakasam for R5

: Mr.V.Karthik, Senior counsel
for Mr.G.Gokul for R6

ORDER

The complainant in Crime No.54 of 2013 being aggrieved by the closure report filed by the Investigating Officer has preferred a protest petition and that protest petition was dismissed by the learned



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judicial Magistrate vide order dated 03.09.2014. Aggrieved by that the present Criminal Revision Case is filed.

2. The sum and substance of the complaint is that the *defacto* complainant gave a power of Attorney to one Rajagopal in respect of his property measuring 3.60.5 acres and the said Power of Attorney duly registered on 15.09.2013. The schedule to the Power of Attorney indicates in respect of several properties which includes the property situated in Survey No.80/10A measuring 78 cents at Pudupakkam village.

3. The case of the *defacto* complainant is that the said Power of Attorney was cancelled by the registered cancellation deed dated 11.01.2007, after due intimation to the Power Agent Rajagopal vide letter dated 06.01.2007. In spite of the notice and the knowledge cancellation of the Power of Attorney deed, the said Rajagopal in connivance with the other accused persons has sold away the property and thereby caused fraud and cheating.



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4. The Investigating Officer, who investigated the complaint, has given a closure report narrating why no criminal action has been taken. The closure report specifically stated about the pendency of the civil suits between the parties and the sale receipts purported had been given by the *defacto* complainant which includes 78 cents of land, which is the subject matter of the complaint. The *defacto* complainant in the protest petition had denied the sale receipts and also submitted that the Power Agent in order to grab his property has created encumbrance and sale deeds for lesser value without proper accounting.

5. The learned Magistrate, who considered the protest petition, dismissed the petition stating that the reference of the complaint closed as Mistake of Facts is maintainable. However, from the reading of the impugned order, this Court finds that after observing that the subject sale by the Rajagopal in favour of Ramesh was subsequent to the cancellation of the Power of Attorney and in the absence of Power of Attorney and in the absence of any material to indicate that the



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cancellation was not duly informed or not within the knowledge of the Power of Attorney, without any due reasoning, had dismissed the protest petition.

6. The learned Senior counsel appearing for the 6th respondent, who is the subsequent purchaser, submits that with due diligence he had purchased the property only after verifying the encumbrance certificate and making paper publication. These facts were considered by the Investigating Officer while filing the closure report and also the learned Magistrate who rejected the protest petition, the petitioner has suppressed the civil transaction between the petitioner and the *defacto* complainant. A bald complaint was initiated after 6 years of transaction and about the knowledge of the transaction. The delay unexplained was considered by the Investigating Officer as well as the learned Magistrate, thereby rejected the protest petition and there is no merit in the revision to revisit the order of the learned judicial Magistrate.



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7. This Court being satisfied that the impugned order of the learned judicial Magistrate is bereft of details, though the closure report with all the necessary reasons for arriving at the conclusion as a mistake of fact, having filed the protest petition, the learned Magistrate ought to have applied his mind and ought to have passed a reasoning order, which found wanting in the impugned order.

8. Since there is a serious allegation made in the revision petition that the sale receipts itself is forged one and the closure report is based on the same is bad, this Court direct the Court below to appraise the evidence afresh. Hence the matter is remanded.

9. In the result, the ***Criminal Revision Case is allowed***. The order of the learned judicial Magistrate is set aside and the learned Magistrate is directed to consider the protest petition afresh and pass reasoned order within a period of two months from the date of receipt of copy of this order.



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10. If the petitioner herein fails to substantiate the protest petition and delay the matter, the learned Magistrate can take appropriate action for closure of the protest petition for that reason itself.

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Internet : Yes/No

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To

The judicial Magistrate II, Chengalpattu.



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Dr.G.JAYACHANDRAN, J.

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