IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.04.2023

CORAM:

THE HONOURABLE MR. JUSTICE **SUNDER MOHAN**

Crl.O.P.No.4694 of 2021
and
Crl.M.P.No.3006 of 2021

K.S.Rajagopalan

...Petitioner / A4

-Vs-

1.The State rep. by:
The Inspector of Police,
District Crime Branch,
Kanchipuram
Kanchipuram District.
(Crime No.15 of 2015)

2.R.B.Chendamarai ... Respondents

Prayer: Criminal Original petition filed under Section 482 of Code of Criminal Procedure, to call for the records relating to the First Information Report in Crime No.15 of 2020 on the file of the 1st respondent and to quash the same.

For Petitioner : Mr.N.Manoharan

For R1 : Mr.A.Damodaran,
Additional Public Prosecutor.

For R2 : No appearance

ORDER

This Criminal Original Petition has been filed seeking to quash the First Information Report in Crime No.15 of 2020 on the file of the 1st respondent, filed for the offences under Sections 419, 465, 468, 471, 420 and 34 IPC.

2.It is alleged in the First Information Report that the defacto complainant and her husband jointly acquired a land measuring an extent of 1.21 acres in S.Nos.1395C/1B1A, 1395C/1B1B and 1395C/1B1C of Thaiyur Village, Thiruporur Taluk, Kancheepuram District, by a registered Sale Deed dated 06.05.2002; that in the year 2011 and 2012 several sale deeds were executed fraudulently in respect of the said property and all the sale deeds were declared as null and void by the judgment of the learned District Munsif, Chengalpet; that the defacto complainant's husband transferred his undivided share to her mother

Sarojini Sellamuthu; that while so, fraudulent sub-division of the property was created in the name of the dead person by name Kenneth Anthony and then a fabricated Power of Attorney was executed on 02.06.2020 and subsequent Sale Agreement on 06.06.2020; with the said power, the defacto complainant and her husband were impersonated by fraudulently obtaining Adhaar Card; that the said Power of Attorney was created with one Prabakaran. The said Prabakaran had in turn executed an Agreement of Sale with the petitioner agreeing to sale the property for a total sale consideration of Rs.6,00,00,000/-. Hence the complaint.

3.The learned counsel for the petitioner submitted that the petitioner is a respectable citizen, who retired as General Manager of Indian Oil Corporation Limited; that he entered into a sale agreement with the said Prabakaran, on the false representation that he was the lawful Power of Attorney Agent of the owners of the property; that he paid an advance of Rs.50,00,000/-; that after the petitioner came to know that the said Prabakaran had created forged documents, he had executed a registered cancellation of Sale Agreement by Document No.9681 of

2020 on 15.10.2020; that the said Prabakaran has not repaid the amount received by him and that the petitioner is only a victim of the crime and is not liable for the alleged offences said to have been committed by the said Prabakaran. Hence, he prayed for quashing of the First Information Report in Crime No:15 of 2020.

4.The learned Additional Public Prosecutor submitted that investigation revealed that Prabakaran had impersonated and created a fabricated power of attorney in his favour and has cheated the petitioner as well. The petitioner had cancelled the agreement entered into between the said Prabakaran after he came to know about the alleged fraud. The learned Additional Public Prosecutor further submitted that the respondent police is taking all efforts to take action against the Prabakaran and other accused. Hence, he prayed for dismissal of the quash petition.

5.Though notice was served on the 2nd respondent and a learned counsel has entered appearance on behalf of the 2nd respondent, there is no representation on his behalf.

6.This Court finds that admittedly the petitioner on coming to know about the alleged fraud committed by the said Prabakaran had cancelled the sale agreement by a registered deed executed on 15.10.2020 in Doc.No.9681 of 2020. The petitioner also claims that he has not received the advance amount paid by him to the said Prabakaran. In such circumstances, this Court is of the view, that the petitioner is a victim in the transaction. He had shown his bonafides by cancelling the sale agreement as early as on 15.10.2020. Therefore, the impugned First Information Report as against the petitioner / A4 is an abuse of process of law. Hence, this Court is inclined to quash the impugned First Information Report on the file of the 1st respondent insofar as the petitioner / A4 is concerned. However, the 1st respondent shall take action against the perpetrators of the crime including the said Prabakaran and other accused persons in accordance with law and file a Final Report within a period of eight weeks from the date of receipt of a copy of this order.

7.With the above observations, this Criminal Original Petition is allowed. Connected Criminal Original Petition is closed.

26.04.2023

smv

Index : Yes/No
Speaking order : Yes/No
Neutral Citation : Yes/No

To,

1.The Inspector of Police,
District Crime Branch,
Kanchipuram
Kanchipuram District.

2.The Public Prosecutor,
High Court of Madras.

SUNDER MOHAN,J.

smv

Crl.O.P.No.4694 of 2021

and

Crl.M.P.No.3006 of 2021

26.04.2023