



Crl.O.P.No.4173 of 2021

WEB COPY IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.06.2023

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THE HONOURABLE MR. JUSTICE SUNDER MOHAN

Crl.O.P. No.4173 of 2021

&

Crl. M.P.Nos. 2627 of 2021 & 8923 of 2023

P.Krishnamurthy @ P.Kutty

... Petitioner

Vs.

1.The Inspector of Police,
Ranipet Police Station,
Ranipet.

2.R.Muthukrishnan

... Respondents

PRAYER: Criminal Original Petition filed under Section 482 of the Criminal Procedure Code, to call for the entire records and quash the FIR in Crime No.1389 of 2020 pending investigation on the file of the 1st respondent.



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For Petitioner : Mr. John Sathyan
Senior Counsel
for Mr. N.Damodaran.

For Respondent 1 : Mr. T.Harish Chowdhary
for Ms. S.Hemalatha

For Respondent 2 : Mr. A.Damodaran
Additional Public Prosecutor.

ORDER

The petition is filed to quash the FIR for the alleged offences under Section 406 & 420 of IPC.

2. It is alleged in the FIR that the accused had granted a loan of Rs.7,86,000/- to the defacto complainant and to secure repayment, the defacto complainant had executed a sale agreement and Power of Attorney; that though the defacto complainant was ready to repay the loan received by him, the accused refused to return the property and instead by using the said Power of Attorney A2 had executed a sale



deed in favour of A1.

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3. The learned senior counsel for the petitioner submitted that the petitioner had filed this instant petition challenging the FIR on the ground that entire transaction is civil in nature and the registered documents were sought to be questioned by way of the impugned FIR. The learned senior counsel would submit that this Court had granted an interim stay of all further proceedings pending disposal of the Criminal Original Petition, however, the 1st respondent had investigated the case and filed the final report which is now pending in C.C.No.91 of 2022 on the file of the Judicial Magistrate, Ranipet. There is a presumption in favour of the registered documents and the allegations are contrary to the registered documents and hence prayed for the quashing of the impugned proceedings.

4. The learned counsel for the 2nd respondent / defacto complainant per contra submitted that in order to secure the loan



transaction, the 2nd respondent had executed a Power of Attorney and that the accused thereafter created a document to make it appear that the 2nd respondent had received a sum of Rs.30,00,000/- from the petitioner.

5. The learned Additional Public Prosecutor submitted that in view of the Judgement of the Hon'ble Supreme Court reported in **2022 (10) SCC 592 – Asian Resurfacing of Road Agency Private Limited and Another Vs. Central Bureau of Investigation**, since 6 months time had lapsed after the interim order granted by this Court, they had filed the impugned final report and there is no impediment in doing the same.

6. This court is of the view that the 1st respondent ought to have obtained necessary permission from this Court for investigating and filing the final report when there is a specific order by this Court granting stay of investigation until further orders.



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7. This Court on perusal of the FIR and the final report finds that the allegation is that the registered documents were executed by the 2nd respondent under coercion and the 2nd respondent did not intend to sell the property or execute the Power of Attorney in favour of the accused. Such an allegation which is contrary to registered documents cannot be a subject matter of investigation by the Police in the absence of necessary ingredients attracting cognizable offence. However, the 2nd respondent would state that a receipt was forged by the petitioner making it appear that the 2nd respondent had received a sum of Rs.30,00,000/- from them.

8. This Court on a reading of the impugned final report finds that the receipt which is said to be forged is not referred in the final report. The other allegations in the final report are in conflict with the recitals in the registered documents. As stated earlier such allegation can only be gone into by a Civil Court. Be that as it may, since the 1st



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respondent has not dealt with the allegation of forgery of a receipt purported to have been executed by the 2nd respondent, the final report filed on the basis of the impugned FIR is liable to be set aside. However, the 1st respondent is at liberty to re-investigate the case taking into consideration all the aspects including the genuineness of the receipt dated 25.05.2020 and file a final report within a period of 3 months from the date of receipt of a copy of this order, by considering the documents produced by all the parties and conducting the investigation in a fair manner.

9. With the above observations, the petition is ordered accordingly. Consequently, the connected miscellaneous petitions are closed. No costs.

26.06.2023

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Index : Yes/No

Internet : Yes/No

Neutral Citation : Yes/No



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