



Crl.O.P.No.4519 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.11.2023

CORAM:

THE HONOURABLE MR.JUSTICE **G.K.ILANTHIRAIYAN**

Crl.O.P.No.4519 of 2021 and
Crl.M.P.No.2888 of 2021

Sushanth Karalapadi

... Petitioner

-Vs-

1) The Inspector of Police,
District Crime Branch (Land Grabbing)
Villupuram.
(Crime.No.88 of 2014)

2) Raguraman

... Respondents

PRAYER: Criminal Original Petition has been filed under Section 482 of Criminal Procedure Code, praying to call for the records a case in C.C.No.255 of 2016 on the file of the Judicial Magistrate II at Tindivanam and quash the same.

For Petitioner : Mr.Aneesh Vinayak

For Respondent 1 : Mr.A.Gopinath
Government Advocate (Crl.Side)

For Respondent 2 : No appearance



Crl.O.P.No.4519 of 2021

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ORDER

This Criminal Original Petition has been filed to quash the proceedings in C.C.No.255 of 2016 on the file of the learned Judicial Magistrate II, Tindivanam having been taken cognizance for the offences punishable under Section 420,423,465,468,471 of IPC and under Section 82 of Registration Act.

2. Though notice was served to the 2nd respondent, no one is appeared on behalf of the 2nd respondent in person or by pleader.

3. The case of the prosecution is that the subject property belonged to Venkateshapillai. He had two sons and one daughter. Two sons alone obtained legal heir certificate suppressing the fact that the defacto-complainant's mother who is also one of the legal heir of the Venkateshapillai as daughter. On the strength of the legal heir certificate, the Accused No.1 and 2 had executed a sale deed in respect of the entire property to various persons. Initially 1st and 2nd Accused had executed a sale deed to Accused No.13 in respect of the land comprised in S.No.288 admeasuring to an extent of 50 cents (1.10 Acres) Marakkanam Village, within the limits of Marakkanam Panchayat Union,



Crl.O.P.No.4519 of 2021

Tindivanam Taluk, Villupuram Taluk. In turn, A13 had executed a sale deed in favour of A3 for the land comprised to an extent of 60 cents. In turn the 3rd accused had executed a sale deed in favour of 15th and 16 accused. Hence the charge.

4. There are totally 17 accused in which this petitioner arrayed as 16th accused. On perusal of the records, the father of the 1st and 2nd accused and the grandfather of the 2nd respondent owned several properties. The Accused 7 to 11 and 14 are the close relatives of 1st and 2nd Accused and the 2nd respondent herein. The Accused No.1 and 2 with the help of their cousin brother namely M.G.Ramamoorthy (Accused No.11) filed a suit and obtained order from the Civil Court, as if they are the legal heirs.

5. 1st and 2nd Accused are the legal heirs of the deceased Venkateshapillai. On the strength of the said legal heir certificate on 8.2.2002 they had executed a sale deed in favour of Gokuldoss and Gopalakrishnan. Immediately it came to the knowledge of the 2nd respondent. A complaint was lodged and final report also filed. It was taken cognizance by the trial court in C.C.No.9288 of 2004 on the file of the XI Metropolitan Magistrate Court, Saidepet. In the said case accused 1, 2 and 11 were convicted by the trial court



Crl.O.P.No.4519 of 2021

and the Trial Court was imposed fine of Rs.10,000/- in default to under go each three months as Simple Imprisonment. After their conviction, the District Collector, Chennai passed an order and issued legal heir certificate in favour of the A1 and A2 and the mother of respondent herein.

6. Even then the 1st and 2nd accused used the earlier legal heir certificate and had executed a sale deed in favour of 13th Accused. In turn Accused 13 executed a sale deed in favour of Accused 3. In respect of entire extent of the property, the petitioner had purchased 50 cents comprised in S.No.288, Old S.No.198 by the registered sale deed dated 30.07.2014 vide Document No.2486 of 2014.

7. The case of the prosecution is that the accused persons conspired together and created encumbrance for the subject property. Admittedly, this petitioner in no way connected with other accused persons. He is the bonafide purchaser and he has nothing to do with the alleged legal heir certificate and sale deed executed by 1st and 2nd Accused. This petitioner is the 3rd purchaser of the property in dispute. In fact after filing final report, the 3rd accused requested the petitioner to cancel the sale deed and accordingly the petitioner herein had executed a cancellation of sale deed in favour of the 3rd accused vide



Crl.O.P.No.4519 of 2021

Document No.1446 of 2015 dated 24.04.2015.

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8. Though the 3rd accused assured to return the entire sale consideration to the 3rd accused, paid only sum of Rs.27,50,000/- out of 34,00,000/-. Further the 3rd accused had assured to pay the remaining amount of Rs.6,50,000/- within a month's time. In which the 3rd accused issued a cheque bearing No.348003 dated 25.06.2015 drawn from Axis Bank, Pondicherry Branch in favour of this petitioner. However the said cheque presented for collection and it was returned dishonoured with an endorsement "INSUFFICIENT FUNDS".

9. Therefore the petitioner initiated proceedings Under Section.138 of Negotiable Instruments Act in C.C.No.6458 of 2015 on the file of the Metropolitan Magistrate, Allikulam, Chennai and it is pending for trial. Therefore it shows that the petitioner is the bonafide purchaser and nothing to do with the offences as alleged by the prosecution. Hence, the prosecution cannot be sustained and liable to be quashed as against this petitioner/Accused No.16 alone.

10. Therefore, the entire proceedings initiated as against this petitioner/Accused No.16 in C.C.No.255 of 2016 on the file of the Judicial



Crl.O.P.No.4519 of 2021

Magistrate II at Tindivanam is quashed and this Criminal Original Petition is allowed. Consequently, connected miscellaneous petition is closed.

08.11.2023

Index :Yes/No

Internet : Yes/No

Speaking order/non-speaking order

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G.K.ILANTHIRAIYAN, J.

gvn



Crl.O.P.No.4519 of 2021

To

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1. The Judicial Magistrate II,
Tindivanam
2. The Inspector of Police,
District Crime Branch (Land Grabbing)
Villupuram.
3. The Public Prosecutor,
High Court, Madras.

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