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Crl.O.P.No.5831 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.03.2023

CORAM:

THE HONOURABLE MR. JUSTICE G.CHANDRASEKHARAN

Crl.O.P.No.5831 of 2023 and
Crl.M.P.No.3657 of 2023

1.Jothi Narayanan

2.Narayanan

... Petitioners

Vs.

1.State by Inspector of Police,
CCB Team – 4, EDF -II, Chennai,
(Crime No.33 of 2023)

2.Manish Agarwal

... Respondents

PRAYER: Criminal Original Petition filed under Section 482 Cr.P.C. praying to call for the records in Crime No.33 of 2023 on the file of the Inspector of Police, CCB Team – 4, EDF- II, Chennai and quash the same.

For Petitioners : Mr.S.Ramesh

For Respondents : Mr.S.Santhosh (For R1)
Government Advocate (Crl. Side)

Mr.V.Balasubramanian (For R2)



Crl.O.P.No.5831 of 2023

WEB COPY

ORDER

This Criminal Original Petition has been filed to call for the records in Crime No.33 of 2023 on the file of the Inspector of Police, CCB Team – 4, EDF- II, Chennai and quash the same.

2.The learned counsel for the petitioners submitted that on the basis of similar complaint, earlier enquiry was conducted and that was closed directing the defacto-complainant to approach Sub-Registrar office appropriately. Again on the same set of allegation, present complaint was given and on that basis, First Information Report in Cr.No.33 of 2023 for the offence under Section 406, 420 and 34 I.P.C. is registered by CCB, Chennai. It is his further submission that there is no sale agreement as projected in the First Information Report. In fact, there was a loan transaction in which accused lent a sum of Rs.5 crore to Virendramal Jain. Virendramal Jain has no property. Petitioners offered their property as security. Thus, petitioners are falsely implicated in this case. Therefore, this petition.

3.The learned Government Advocate (Criminal side) submitted that



Crl.O.P.No.5831 of 2023

after receiving sale consideration of Rs.5,01,00,000/- and execution of power of attorney deed in favour of defacto-complainant, petitioners cancelled the power of attorney deed and did not also return the original title deeds to the defacto-complainant. Clearly commission of offences under Section 406 and 420 I.P.C are made out.

4.Mr.V.Balasubramanian, the learned counsel for second respondent filed vakalat for second respondent opposed this petition.

5.Considered the rival submission and perused the records.

6.The First Information Report allegations show that defacto-complainant entered into sale agreement with accused Jothi, wife of accused Narayanan by registered document No.2027 of 2019, SRO Tambaram for the purchase of vacant site comprised in different survey numbers totalling 1.37 acres at Tambaram. Total consideration was fixed as Rs.5,01,00,000/-. Rs.5,00,00,000/- was paid through RTGS and remaining Rs.1,00,000/- was paid in cash. After receiving entire sale consideration Jothi executed general power of attorney deed in favour of defacto-complainant's, another company named Sri Manav Construction and Developers Private Limited to deal with



Crl.O.P.No.5831 of 2023

the property. Vacant possession of the property was also handed over to the defacto-complainant. On 18.09.2022, Narayanan contacted the defacto-complainant and informed that he has a prospective buyer for purchasing the property and wanted original documents for the perusal of the prospective buyer. On 24.09.2022, the original documents were handed over to him. Thereafter, there was no efforts to complete the sale. Narayanan informed him that prospective buyer had gone out of the country. On suspicion defacto-complainant checked the encumbrance certificate and found that accused Jothi cancelled the general power of attorney deed. When contacted the accused promised to return the amount, but did not keep up the promise. Under the circumstances, the complaint was given.

7.The First Information Report allegations clearly make out the commission of cognizable offences by the petitioners leading to registration of First Information Report for the offence under Section 406 and 420 I.P.C. The First Information Report was registered only on 04.02.2023 and investigation is in the preliminary stage. In the light of the allegations made in the First Information Report, this Court is of the considered view that the allegations are to be properly enquired and investigated by the respondent Police. If the petitioners have evidence in support of their case that there was



Crl.O.P.No.5831 of 2023

a loan transaction, they can produce evidence in their possession before the investigating officer. The investigating officer is directed to consider the evidence produced by the petitioners and complete the investigation in the manner known to law and file final report. This Court finds no merits to entertain the prayer for quashing the First Information Report in Cr.No.33 of 2023 on the file of the Inspector of Police, CCB Team – 4, EDF- II, Chennai.

8.Accordingly, this Criminal Original Petition is dismissed.
Consequently, connected miscellaneous petition is closed.

16.03.2023

Internet: Yes
Index: Yes/No
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To:

1. Inspector of Police,



Crl.O.P.No.5831 of 2023

CCB Team – 4, EDF -II, Chennai.

2. The Public Prosecutor,
High Court of Madras.



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Crl.O.P.No.5831 of 2023

G.CHANDRASEKHARAN, J.
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Crl.O.P.No.5831 of 2023 and
Crl.M.P.No.3657 of 2023

16.03.2023