



Crl.O.P.Nos.3251, 3269, 3880 of 2014 and
3627 of 2021

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 28.04.2023

CORAM:

THE HONOURABLE MR. JUSTICE **P.VELMURUGAN**

**Crl.O.P.Nos.3251, 3269, 3880 of 2014
and 3627 of 2021**

K.C.P.Shivaraman	...Petitioner in Crl.O.P.No.3251/2014
Vikram Agnihotri	...Petitioner in Crl.O.P.No.3269/2014
Sulochana Bheemaraja	...Petitioner in Crl.O.P.No.3880/2014
K.Lakshmi	...Petitioner in Crl.O.P.No.3627/2021

Vs.

1. State of Tamilnadu,
The Inspector of Police,
District Crime Branch,
Kanchipuram District, Kanchipuram
2. K.Lakshmi ...Respondents in Crl.O.P.Nos.3251 &
3880/14



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State of Tamilnadu,
The Inspector of Police,
District Crime Branch,
Kanchipuram District,
Kanchipuram

...Respondent in Crl.O.P.No.3269/14

1. State of Tamilnadu,
The Inspector of Police,
District Crime Branch,
Chengalpattu District,
(formerly Kancheepuram District)

2. Sulochana Bhimaraja
3. K.C.P.Sivaraman
4. Vikram Agnihotri

...Respondents in Crl.O.P.No.3627/21

Prayer in Crl.O.P.Nos.3251, 3269, 3880/2014: The Criminal Original Petitions filed under Section 482 of Cr.P.C. to call for records in C.C.No.6 of 2014 pending on the file of the learned Judicial Magistrate – II, Chengalpet and quash the same.

Prayer in Crl.O.P.No.3627/2021: The Criminal Original Petitions filed under Section 482 of Cr.P.C. to direct the first respondent police to execute the non bailable warrant against the respondents 2 to 4/Accused 1 to 3 passed by the learned Judicial Magistrate No.II, Chengalpattu in C.C.No.6 of 2014 on 29.01.2021.

For Petitioner :Mr.K.V.Babu in Crl.O.P.No.3251/14

Mr.G.Balasubramanian in Crl.O.P.3269/14



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Mr.K.Mahalingam in Crl.O.P.No.3880/14

Dr.V.Suresh in Crl.O.P.No.3627/21

For Respondents : Mr.S.Sugendran
Govt. Advocate (Crl.Side) for R1
Dr.V.Suresh for R2 in
Crl.O.P. Nos.3251 & 3880/14

Mr.S.Sugendran Govt. Advocate (Crl.Side)
in Crl.O.P.3269/14

Crl.O.P.No.3627/2021

Mr.S.Sugendran Govt. Advocate (Crl.Side)
for R1
Mr.K.Mahalingam for R2
Mr.K.V.Babu for R3
Mr.G.Balasubramanian for R4

COMMON ORDER

The Criminal Original Petitions in Crl.O.P.Nos.3251, 3269 and 3880 of 2014 have been filed by all the three accused in C.C.No.6 of 2014 seeking to quash the above case against them, which is pending before the learned Judicial Magistrate II, Chengalpattu.



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2 The Criminal Original Petition in Crl.O.P.No.3627 of 2021 has been filed by the defacto complainant in C.C.No.6 of 2014 seeking direction to the first respondent police to execute the Non Bailable Warrant issued against all the three accused by the learned Judicial Magistrate II, Chengalpattu.

3 Originally the first respondent police registered the case in Crime No.87 of 2013 against the petitioners in Crl.O.P.Nos. 3251, 3269, 3880 of 2014 based on the complaint given by the petitioner in Crl.O.P.No.3627 of 2021 for the offence under Sections 409, 406, 420 r/w Section 34 of IPC, which culminated in C.C.No.06 of 2014.

4 The crux of the prosecution case, as found in the impugned FIR is that the the defacto complainant and her father owned property in Padur Village, Chengalpet Taluka, Kanchipuram District measuring an extent of 3 Acres and 52 Cents. The defacto complainant and her father executed



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general power of attorney in favour of the first accused viz. Sulochana Bheemaraja to sell the property and based on which A1 Sulochana Bheemaraja sold the property to third accused through second accused by fabricating the documents and thereby cheated the defacto complainant without informing the sale of the property and without even paying share in the sale proceeds to the defacto complainant.

5 The learned Counsel appearing for the respective accused would submit that the original owner for the disputed land is one Kapali Nattar and the defacto complainant is an adoptive daughter of the said Kapali Nattar. The said Kapali Nattar along with the defacto complainant executed general power of attorney vide Document No.1333 of 2006 and the defacto complainant was added only by way of abundant caution and the Kapali Nattar is the owner of the disputed property. Based on the power of attorney, the petitioner viz. Sulochana Bheemaraja had sold the property to M/s.Pacifica Infrastructures Private Limited, in which the third accused Vikram Agnihotri is the Regional Manager, through the second accused K.C.P.Shivaraman and the said Kapali Nattar had received the entire sale



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consideration, which was admitted by the defacto complainant in her earlier complaint filed against her father and Vikram Agnihotri in Crime No.25 of 2008, which culminated in C.C.No.21 of 2010. In the said complaint the defacto complainant has stated that her adoptive father Kapali Nattar cheated her without giving her share in the sale proceeds and thus it is clear that the defacto complainant had dispute with her adoptive father with regard to the share in the immovable property and the sale proceeds. Further the said case in C.C.No.21 of 2010 was came to be quashed by this Court based on the settlement arrived at between the defacto complainant and the third accused viz. Vikram Agnihotri.

5.1 The Investigating Officer and the learned Judicial Magistrate, who took cognizance on the charge sheet filed by the respondent police in Crime No.87 of 2013, failed to peruse the earlier complaint filed by the defacto complainant dated 14.06.2008 against her father and the third accused Vikran Agnihotri, wherein she has clearly admitted that her father received entire sale consideration and he cheated her without giving her share. Thus it is clear that the defacto complainant filed the present



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complaint against the petitioners/A1 to A3 only to extract money.

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5.2 Therefore the learned counsel would submit that the learned Magistrate failed to consider that for the very same dispute the defacto complainant has already filed complaint and subsequently entered into compromise and the case was also came to be quashed by this Court. Now she has filed the present complaint, which is abuse of process of law. Hence the case in Crime No.87 of 2018, which was taken on file in C.C.No.6 of 2014 is liable to be quashed.

6 The learned counsel appearing for the defacto complainant the petitioner in Crl.O.P.No.3627 of 2021 would submit that all the accused colluding with each other, based on the general power of attorney executed by the father of the defacto complainant and the defacto complainant in favour of the first accused Sulochana Bhimaraja, had sold the property by impersonation and also cheated the defacto complainant without giving her share. After many attempts to get her shares and since all the attempts went in vein, the defacto complainant lodged the complaint and the Investigating



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Officer also after investigation has laid charge sheet, which was taken on file in C.C.No.6 of 2014 by the learned Judicial Magistrate No.II, Chengalpattu.

The defacto complainant has clearly made allegations against each of the accused and hence the present petitions seeking to quash the case in C.C.No.6 of 2014 are liable to be dismissed.

7 Heard the learned counsel appearing on either side and the learned Government Advocate (Crl.Side) and carefully perused the materials available on record.

8 It is seen that the allegation of the defacto complainant is that A1 Sulochana Bhimraja having obtained the power of attorney in her favour to deal with the property measuring an extent of 3.52 cents in Padur Village owned by the father of the defacto complainant, sold the same to the third accused and second accused facilitated the transaction and A1 received entire sale consideration from A3 and has not given the share of the defacto complainant. A2 and A3 also colluding with A1 illegally purchased the property by impersonation and thereby all the three accused committed



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forgery and cheating.

9 A careful reading of the complaint filed by the defacto complainant reveal *prima facie* allegations against each of the accused and once there is allegation made by the complainant, it is the duty of the police to investigate into the matter and file final report.

10 As far as the contention of the learned counsel for the accused that the defacto complainant got compromised with the third accused for the same set of allegations and now she cannot made the similar allegation is concerned, it is the case of the defacto complainant that all the accused are evading from paying the share of the defacto complainant and cheated the defacto complainant.

11 Therefore this Court does not find any valid reason to quash the case in C.C.No.6 of 2014 and hence the criminal original petitions in Crl.O.P.Nos.3251, 3269 and 3880 of 2014 are dismissed. The petitioners/A1 to A3 are at liberty to raise all their defence before the trial



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12 As far as the petition in Crl.O.P.No.3627 of 2021 filed by the defacto complainant to execute the warrant issued against the petitioners/A1 to A3 is concerned, the petitioners/A1 to A3 are directed to appear before the trial Court, failing which, the respondent police shall execute the warrant issued by the trial Court and the criminal original petition stands disposed of with the above directions. Consequently connected miscellaneous petitions are closed, if any.

28.04.2023

Speaking Order/Non Speaking

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To

1. The Inspector of Police, District Crime Branch,
Chengalpattu District, (formerly Kancheepuram District).
2. The Public Prosecutor, High Court of Madras.



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P.VELMURUGAN, J.,

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Pre-Delivery Order in
Crl.O.P.Nos.3251, 3269, 3880 of 2014
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