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CrI.OP.No.15020 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.11.2023

CORAM:

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

CrI.OP.No.15020 of 2021 and
CrI.MP.Nos.8191 & 8192 of 2021

R.Ayyappan

... Petitioner

Vs.

1.The State rep by its
Inspector of Police,
CCB Police Station, LG-II, Team-24, Egmore,
crime No.21 of 2012

2.Renuga

... Respondents

PRAYER: Criminal original petition is filed under Section 482 of Cr.P.C. to call for the records and to quash the CC.No.51 of 2021 on the file of the Judicial Magistrate No.1, Poonamallee.

For Petitioner

: Mr.Arun Anbumani
for Mr.AR.Balaji

For Respondents

For R1

: Mr.A.Gopinath,
Government Advocate(crl.side)

For R2

: M/s.Simi Mathew
for Mr.A.M.Packianathan Easter

ORDER

This Criminal Original Petition has been filed to quash the proceedings in CC.No.51 of 2021 on the file of the Judicial Magistrate No.1,



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Poonamallee thereby taken cognizance for the offence under Sections 419, 420, 465, 468, 471 & 34 of IPC as against the petitioner.

2. The case of the prosecution is that the land comprised in survey No.17/2 and 20/1 situated at Ayapakkam Village, Ambattur Taluk admeasuring 2310 sq.ft. was originally owned by one, Renuka by virtue of sale deed dated 26.08.1989 wide document No.7059 of 1989. Thereafter, she was impersonated by the accused and executed power of attorney in favour of the first accused in respect of part of the said property admeasuring 646 sq.ft., in which the second accused stood as witness. In turn, the first accused had executed sale deed in favour of the third accused in which also the second accused was one of the witness. In turn, the third accused had executed sale deed in respect of the property admeasuring 646 sq.ft. in favour of the 4th accused, thereby they grabbed the property belongs to the defacto complainant. On receipt of the said complaint, the first respondent registered FIR for the offence under Sections 419, 420, 465, 468, 471 & 34 of IPC. After completion of investigation, the first respondent filed final report and the same has been taken cognizance in CC.No.51 of 2021 on the file of the learned Judicial Magistrate-I, Poonamallee.



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3. The learned counsel for the petitioner would submit that the petitioner is arrayed as A4. He is a bonafide purchaser. Even according to the case of the prosecution, A1 to A3 with common intention colluded together in order to usurp part of the property belongs to the defacto complainant and impersonated the defacto complainant and executed power of attorney in favour of the first accused, in which the second accused stood as witness. In turn, the first accused had executed sale deed in favour of the third accused and from the third accused, the petitioner had purchased the property by the registered sale deed dated 17.10.2003 vide document No.5664 of 2003 for valid sale consideration. After purchasing the said property, he constructed a residential house and all the revenue records were mutated in his name. He also subjected his house for property tax and paid all revenue dues. Therefore, he has nothing to do with the crime committed by the other accused persons.

4. The learned counsel for the second respondent would submit that all the accused persons, with common intention, in order to grab the property, impersonated the defacto complainant and had executed power of attorney in favour of the first accused. In turn, he had executed sale deed in favour of the third accused. Thereafter, the subject property was transferred in the name of



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the petitioner. That apart, the grounds raised by the petitioner can be considered only before the trial court during the trial. She further submitted that the second respondent also filed suit in OS.No.173 of 2016 on the file of the III Additional District Court, Thiruvallur for declaration declaring that the sale deeds which were executed in favour of the third accused and 4th accused as null and void. In fact, the petitioner herein filed application in IA.No.154 of 2017 for rejection of plaint under Order VII Rule 11 of CPC and the same was allowed on 04.06.2018. Aggrieved by the same, the second respondent preferred civil revision petition. However, it was returned on the ground that the Civil revision petition is not maintainable. Therefore, the second respondent filed appeal suit and it is pending before this court.

5. Heard, the learned counsel appearing on either side.

6. On perusal of records, there are totally 4 accused. The property comprised in survey No.17/2 and 20/1 situated at Ayapakkam Village, Ambattur Taluk admeasuring 2310 sq.ft. was purchased by the second respondent by the registered sale deed dated 26.08.1989 wide document No.7059 of 1989. Out of the total extent of 2310 square feet, for 646 square



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feet property alone, in order to usurp, the second respondent was impersonated and executed power of attorney in favour of the first accused. It is seen that the accused 1 to 3 with common intention, in order to usurp the part of the property, executed power of attorney on 02.07.2002 registered vide document No.3663 of 2002 in favour of the first accused by impersonating her. On the strength of the same, the first accused had executed sale deed in favour of the third accused by the registered sale deed dated 28.06.2002 registered vide document No.3663 of 2002. Thereafter, the petitioner is being the bonafide purchaser, purchased the said property from the third accused by the registered sale deed dated 07.10.2003 vide document No.5664 of 2003 for valid sale consideration. Immediately after purchase, he put up a construction and is living there. His house is also assessed to property tax and all other revenue records were mutated.

7. Admittedly the petitioner is no way connected with the other accused persons i.e. A1 to A3. He is a stranger to A1 to A3 and as such he is a bonafide purchaser for valid sale consideration. In fact, the second respondent challenged the sale deeds in OS.No.173 of 2016, in which the petitioner filed application for rejection of plaint in IA.No.154 of 2017 and the same was



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allowed on 04.06.2018 on the file of the III Additional District Court, Thiruvallur. Aggrieved by the same, the second respondent filed appeal suit and it is not even numbered till today. Even then, as far as the petitioner is concerned, he is a bonafide purchaser and no offence is made out as against the petitioner as alleged by the prosecution. Therefore, the entire proceedings as against the petitioner is nothing but clear abuse of process of law and it is liable to be quashed.

8. In view of the above, the entire proceedings in CC.No.51 of 2021 on the file of the Judicial Magistrate No.1, Poonamallee is quashed as against the petitioner alone and this criminal original petition is allowed. Consequently, connected miscellaneous petitions are closed.

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Index :Yes/No

Internet : Yes/No

Speaking order/non-speaking order
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To

- 1.The learned Judicial Magistrate No.1,
Poonamallee
- 2.Inspector of Police,
CCB Police Station, LG-II, Team-24,
Egmore,
- 3.The Government Advocate,
High Court of Madras



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G.K.ILANTHIRAIYAN, J.

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