



Crl.R.C.No.1265 of 2023

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 27.09.2023

DELIVERED ON : 04.10.2023

CORAM :

THE HONOURABLE MRS. JUSTICE R. HEMALATHA

Crl.R.C.No.1265 of 2023

Sujatha Mouli

... Petitioner

Vs.

1.State rep. by
The Inspector of Police,
CCB, EDF - II, Wing - 4,
Vepery, Chennai - 07.

2.Dr.J.Jayaprasad

... Respondents

(R2 impleaded as per order dated 26.07.2023 in Crl.M.P.No.10634/2023 in Crl.R.C.No.1265/2023)

Prayer : Criminal Revision filed under Sections 397 r/w. 401 of Criminal Procedure Code to set aside the orders dated 05.06.2023 in Crl.M.P.No.41194/2022 on the file of the CCB, CBCID Metropolitan Magistrate Court, Egmore, Chennai.

For Petitioner : Mr.L.Infant Dinesh

For R1 : Mr.R.Vinothraja, GA (Crl. Side)

For R2 : Mr.A.Kalaiselvan



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ORDER

Challenge in this revision is made to the orders dated 05.06.2023 in Crl.M.P.No.41194/2022 on the file of the CCB, CBCID, Metropolitan Magistrate Court, Egmore, Chennai.

2.The petitioner Sujatha Mouli W/o. Late Chandira Mouli has challenged the dismissal of the discharge petition in Crl.M.P.No.41194/2022 in C.C.No.1923/2017 on the file of the CCB, CBCID, Metropolitan Magistrate Court, Egmore, Chennai.

3.Briefly into the facts of the prosecution case.

3.1. The defacto complainant is Dr.J.Jayaprasad who was having a hospital in the name of M/s.Jaya Clinic in his own three storeyed building. He intended to expand and develop his clinic and therefore, was in need of funds to the tune of Rs.5 Crores. It was then when he was introduced to the present petitioner (Mrs.Sujatha Mouli) (A3) by one Badrinarayan and Manikandan. At the same time on



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10.08.2009, he was approached by one Sanjay A. Khanna (A1) who had political connections and wanted the defacto complainant to sell the clinic property to him which the latter refused. However, the defacto complainant who was desperate to get a 'low interest' loan from some nationalised bank believed the present petitioner and on 30.10.2009 gave a Power of Attorney in her name to get a loan of Rs.5 Crores within six months. It was registered as Document Number 1334/2009 on the file of the Sub Registrar, Mylapore, witnessed by one Parthasarathy and one Jeyaraj. As nothing fructified Dr.Jayaprasad cancelled the Power of Attorney on 21.06.2010 vide Doc.No.537/2010. But later on 01.10.2012 at about 11.00 pm, the husband (A4) of the present petitioner barged into his clinic with 15 goondas and damaged the expensive medical equipments, records and accounting books. He also obtained signature of Dr.Jayaprasad on blank stamp papers and white sheets. The staff of the clinic were held hostage in the clinic. According to the complainant, this was in backlash to the cancellation of Power of Attorney by him. On 06.02.2013 when the complainant obtained Encumbrance Certificate on the property he came to know that the property was already sold to three



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persons namely Sanjay Khanna (A1), Kanchan Amirlal Nichani (A2) and Sheetal Khanna (A7) on 11.10.2011 itself much after the cancellation of the Power of Attorney by the defacto complainant.

3.2. Based on the complaint dated 08.02.2013 of Dr.Jayaprasad FIR was registered on 04.05.2013 in Crime No.153/2013 under Sections 420, 406, 468, 506 (i) r/w.120(b) IPC by the Sub Inspector of Police, CCB, EDF-III Wing, Chennai pursuant to the directions of this Court in Crl.M.P.No.1759/2022 as initially the complaint was closed as a civil dispute. Thus all the accused had committed offences under Sections 420, 406, 468, 506(i) r/w.120(B) IPC.

3.3. The husband of the present petitioner expired on 13.11.2018.

3.4. The present petitioner (A3) had a different version of the sequence of events. According to her, Dr.J.Jayaprasad wanted to sell his property consisting of three floors located in # 15, Velachery Main Road,



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admeasuring 2 grounds and 1296 sq.ft. for an amount of Rs.1.65 Crores and entered into a sale agreement in favour of her husband Chandramouli (A4) on 12.08.2009 which was registered as Document Number 2592/2009 on the file of the Sub Registrar, Velachery. Subsequently, on 13.08.2009 itself a sale deed was executed in favour of Chandramouli (since deceased). This was not registered. In the said deed the receipt of following four cheques was acknowledged.

1. Cheque No.111988 dated 12.08.2009 for Rs.1,00,000/- on ICICI Bank, Mount Road, Chennai.
2. Cheque No.111990 dated 13.08.2009 for Rs.56,00,000/- on ICICI Bank, Mount Road, Chennai.
3. Cheque No.057815 dated 13.08.2009 for Rs.1,00,00,000/- on ICICI Bank, Alwarpet Branch, Chennai.
4. Cheque No.057825 dated 24.08.2009 for Rs.8,00,000/- on ICICI Bank, Alwarpet Branch, Chennai.

According to the present petitioner this sale deed was not registered to facilitate easy transfer of the property in case they desired to sell it.



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However, as a matter of abundant caution, a Power of Attorney was obtained on 30.10.2009 in favour of the present petitioner. However, the present petitioner as the Power of Attorney holder executed a sale deed in favour of M/s. Thiru HealthCare Services Pvt. Ltd., which had her husband Chandramouli and her mother-in-law as directors on 14.12.2009 and the same was registered as Document Number 4683/2009 on the file of the Sub Registrar, Velacherry. According to the present petitioner this was much before the cancellation of the Power of Attorney on 21.06.2010. She averred that this important fact was suppressed by the defacto complainant in his complaint and also brushed aside by the police. Subsequent to this sale also, the defacto complainant demanded more money and also disturbed the peaceful possession making the couple Chandramouli and the present petitioner to approach this Court in C.S. No.371/2011 seeking permanent injunction. In the meanwhile when there was an offer to purchase the property from one Sanjay A. Khanna (A1), Sheethal S. Khanna (A7) and Kanjan Amirlal Nichani (A2), the sale deed dated 11.10.2011 was registered as Document No.5688 of 2011 and 5689 of 2011 on the file of the Sub Registrar, Velacherry. It was not



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sold by the present petitioner as Power of Attorney holder. Therefore, the present petitioner sought for a relief of discharge from C.C.No.1923/2017 in Crl.M.P. No.41194/2022. The present petitioner also relied on a letter dated 20.02.2010 in which the defacto complainant had requested temporary access to the property.

3.5. The trial court in the verdict opined that in the light of the statement made by the wife of the defacto complainant under 161(3) Cr.P.C. before the police that the sale agreement between the defacto complainant and the deceased Chandramouli was made without mentioning that it was made for the purpose of availing loan from bank as per the advice of Chandramouli and also relied on 161(3) Cr.P.C statements by the staff of the clinic and concluded that there was a prima facie case against the present petitioner and dismissed the discharge petition, aggrieved over which, the present Criminal Revision Case is filed.

4. Mr.L.Infant Dinesh, learned counsel for the present petitioner contended that the entire case is a false and fabricated one and there is no iota of truth in the final report of the police. He also would



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contend that even assuming that there was an attack on the clinic by Late.Chandramouli with 15 goondas, it was alleged to have taken place two years after the cancellation of Power of Attorney and no steps seem to have been initiated by the defacto complainant to dispute the transaction. Moreover, the defacto complainant had suppressed the receipt of Rs.1.65 crores initially.

5. I find only two aspects which would decide whether the dismissal of the discharge petition was right or wrong. The first aspect is that the sale of the property to the said Sanjay Khanna (A1), Sheetal S. Khanna (A7) and Kanchan Amirlal Nichani (A2) on 11.10.2022 was executed by M/s. Thiru Health Care Services and not by the present petitioner as a Power of Attorney. The second aspect is that the alleged attack on the clinic by the deceased Chandramouli and 15 other goondas did not feature the present petitioner (or any of the accused for that matter) in any manner and thus the charge of causing damage to the clinic also fails against the present petitioner.



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6. The trial court has also observed that the sale agreement dated 12.08.2009 by the defacto complainant to the said Chandramouli (A4) (since deceased) has not been disputed by the prosecution. At this juncture, it is also pertinent to reproduce the contents of the letter dated 20.02.2010, which are self explanatory.

"From

*Dr.J.JAYAPRASAD,
26, Old 8/1, II Street,
Gopalapuram, Chennai 600 086.*

To

*K.Chandra Mouli/Thiru Healthcare/Madras Carbons,
38/110, Abhiramapuram 4th Street,
Chennai 600 018.*

Sir,

*Re: Request for temporary access to the premises after
handing over possession on sale - Of. No.15 (old No.8),
Nagendra Nagar, Velacherry Main Road, Chennai 600 042.*

*I have handed over the possession of the property of new
No.15 (old No.8), Nagendra Nagar, Velachery Main Road,
Chennai 600 042 on 13.08.2009 to K.Chandra Mouli of
you, after receiving the entire sale consideration in full. I
have executed a Power of Attorney in favour of Ms.Sujatha
Mouli with power to execute and register the sale,*



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subsequently on 30.10.2009, registered as Doc. No.1334 of 2009 on 30.10.2009, at the Sub Registrar's office, Mylapore, which is subsisting as on date.

As I have been running a Hospital there, in the name of Jaya Hospital which I have been winding up for some time and still there were some old furniture. You were kind enough to allow me to use the above premises for some more time, without any right or claim from me whatsoever. Now, I require the two keys of the front gate and shutter for one week as I have my old car and a table and chairs to shift. You have been kind enough to give me two keets of the two Godrej locks bearing Nos.51952 & 51839, which I acknowledge having received this day for return to you in a week's time.

Thanking you,

Truly yours,

(Dr.J. JAYAPRASAD)"

With such clinching evidence against the defacto complainant, it is surprising that the trial court has felt that 'trial only will reveal the truth' and concluded that there is prima facie case against the present petitioner. Police on their side averred that the complaint from Dr.Jayaprasad was first closed as a civil dispute and later taken up for



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registering FIR as per directions of this Court. When there was no prima facie case against the present petitioner, it is ridiculous that the police prepared the final report indicting the present petitioner ignoring the two vital aspects already discussed supra.

7. Based on the records produced before this Court, I do not see any possibility of implicating the present petitioner for the offences mentioned in the charge sheet. It does not need any Sherlock Holmes to probe into something which is glaring on the face of it.

8. In the result, the Criminal Revision Case is allowed and the present petitioner is discharged from all the offences of which she was charged in C.C No.1923/2017 on the file of the Metropolitan Magistrate, CCB, CBCID, Chennai.

04.10.2023

Index: Yes/No
Internet: Yes/No
Speaking/Non-Speaking order
mtl/bga



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To

1.State rep. by
The Inspector of Police,
CCB, EDF - II, Wing - 4,
Vepery, Chennai - 07.

2. CCB, CBCID Metropolitan Magistrate Court, Egmore, Chennai.



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R. HEMALATHA, J.
mtl/bga

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