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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.09.2023

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THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

Crl.O.P.No.20140 of 2023

and

Crl.M.P.No.13719 of 2023

A.Azizul Karim,
S/o.Late Abdul Malik

..Petitioner

vs.

1.The State represented by its,
Assistant Commissioner of Police,
CCB, Forgery Investigation Wing,
Vepery, Chennai-600007.

2.The Registrar General of Madras,
High Court, Chennai-600104.

..Respondents

PRAYER: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to set aside the order made in Crl.M.P.No.37578 of 2022 dated 17.07.2023 on the file of the Chief Metropolitan Magistrate, Egmore, Chennai.

For Petitioner	: M/s.Bharathy Meena
For R1	: Mr.A.Damodaran Additional Public Prosecutor
For R2	: Mr.M.Kemp Raj



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ORDER

This Criminal Original Petition has been filed challenging the order passed by the Court below in CrI.M.P.No.37578 of 2022 dated 17.07.2023, wherein the petitioner had sought for transfer of the case pending in C.C.No.6663 of 2022 on the file of Special Court, CCB, CBCID Metropolitan Magistrate Court to be tried along with C.C.No.410 of 2022 on the file of VII Metropolitan Magistrate Court, George Town, Chennai.

2. Heard M/s.Bharathy Meena, learned counsel for the petitioner and Mr.A.Damodaran, learned Additional Public Prosecutor for 1st respondent and Mr.M.Kemp Raj, learned counsel for 2nd respondent.

3. This Court has carefully considered the submissions made on either side and also perused the materials available on record.

4. The 1st respondent registered an F.I.R. in Crime No.68 of 2020, based on the complaint given by one Kirubakaran and a final report came to be filed before the CCB, CBCID, Metropolitan Magistrate Court at Egmore for alleged offences under sections 419, 420, 465, 467, 468 471, r/w 120(B) and

109 IPC and the same was taken on file by the Court below in C.C.No.6663 of



2022. It is also brought to the notice of this Court that the charges have been framed and the case is now at the stage of trial.

5. The main allegation that was made against the accused person is that he had forged the sale agreement.

6. Parallely, a suit was also filed before this Court in C.S.No.212 of 2017, where the very same sale agreement was relied upon by the accused person. Hence, an application was filed by the above said Kirubakaran in Application No.944 of 2020 to initiate action against the accused person for forgery and to proceed further in accordance with procedure under section 340 of Cr.P.C. This Court by order dated 01.10.2020, directed a complaint to be filed against the accused person/petitioner for alleged offence under sections 193, 196, 199, 200 and 209 of I.P.C. in accordance with procedure under section 340 of Cr.P.C. Accordingly, the complaint came to be filed before VII Metropolitan Magistrate Court, George Town, Chennai, which was taken on file in C.C.No.410 of 2022. The petitioner filed CrI.M.P.No.37578 of 2022 before the learned Chief Metropolitan Magistrate Court, Egmore, Chennai, seeking for withdrawing the case in C.C.No.6663 of 2022 before the CCB, CBCID Metropolitan Magistrate Court, Egmore, Chennai and to transfer the same to be



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tried along with C.C.No.410 of 2022, pending on the file of the VII Metropolitan Magistrate Court, George Town, Chennai. This application came to be allowed by the learned Chief Metropolitan Magistrate Court, Egmore, Chennai and the case was also transferred and it was renumbered as CC No.1546 of 2023.

7. The second respondent was aggrieved by the above order on the ground that no opportunity was given to him before this order was passed by the learned Chief Metropolitan Magistrate, Egmore. Therefore, CrI.O.P.No.12828 of 2023 was filed before this Court. This Court by an order dated 26.06.2023 set aside the order passed by the learned Chief Metropolitan Magistrate, Egmore and remanded the matter back to the file of the Chief Metropolitan Magistrate Court, Egmore, Chennai to consider the application afresh after affording an opportunity to the second respondent.

8. Pursuant to the above order, the matter was once again taken up for consideration by the learned Chief Metropolitan Magistrate, Egmore, Chennai and by an order dated 17.07.2023, the application filed by the petitioner was rejected and a consequential direction was issued to re-transfer the case back to the file of the CCB, CBCID Metropolitan Magistrate Court, Egmore, Chennai



from the file of the VII Metropolitan Magistrate Court, George Town, Chennai.

Aggrieved by the same, the present petition has been filed.

9. In the considered view of this Court, there is no question of trying the police case and also the complaint given by this Court jointly. The cause of action for both these cases are different and both the cases can only be tried separately and it cannot be jointly tried as requested by the petitioner. However, the questionable document that is common to both the cases is the alleged forged sale agreement. This document will be the main issue in focus in both the cases. Therefore, it will be fit and proper if the same Court deals with both the cases separately. If two different Courts have to deal with the matter, the documents will have to go back and forth and it will only cause more confusion. If the documents remain in the same Court, that Court can try both the cases separately. This will sufficiently take care of the interest of both sides.

10. In the light of the above discussion, the order passed by the Court below in CrI.M.P.No.37578 of 2022 dated 17.07.2023 is partly set aside. The decision that was arrived at by the Court below to the effect that both the cases cannot be tried together, is hereby upheld and it does not require the interference of this Court. However, the consequent decision taken by the court



below to once again send the matter back to the file of the CCB and CBCID

Metropolitan Magistrate Court, Egmore, Chennai is interfered.

11. The case that was pending on the file of the CCB, CBCID Metropolitan Magistrate Court, Egmore, Chennai, was already transferred to the file of the VII Metropolitan Magistrate Court, George Town, Chennai and it was also renumbered as C.C.No.1546 of 2023. This position is restored and the VII Metropolitan Magistrate Court, George Town, Chennai will also try the case in C.C.No.1546 of 2023. At the risk of repetition, it is made clear that the learned VII Metropolitan Magistrate Court, George Town, Chennai will try the case in C.C.No.6663 of 2022 and C.C.No.1546 of 2023 separately.

12. This Criminal Original Petition is disposed of in the above terms. The learned VII Metropolitan Magistrate Court, George Town, Chennai shall complete the proceedings within a period of four months from the date of the receipt of a copy of this order. Consequently, the connected miscellaneous petition is closed.

11.09.2023

Index : Yes/No
Internet : Yes/No
Speaking Order/Non-Speaking Order

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1. VII Metropolitan Magistrate Court, George Town, Chennai
2. CCB, CBCID Metropolitan Magistrate Court, Egmore, Chennai
3. Assistant Commissioner of Police,
CCB, Forgery Investigation Wing,
Vepery, Chennai-600007.
4. The Registrar General of Madras,
High Court, Chennai-600104.



N. ANAND VENKATESH., J.
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