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CrI.O.P.No.23595 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.11.2023

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THE HON'BLE Mr. JUSTICE **G.K.ILANTHIRAIYAN**

CRL.O.P.No.23595 of 2022
and CRL.M.P.No.15042 of 2022

P.Boominathan

... Petitioner

Vs

1.The State represented by,
The Inspector of Police,
Central Crime Branch – II,
Chennai.

2.Lingeshwari Vidya

... Respondents

Prayer: Criminal Original Petition is filed under Section 482 of Criminal Procedure Code, to call for the records pertaining to the charge sheet in C.C.No.261 of 2020 pending on the file of the Learned Judicial Magistrate No. I, Tambaram, Chennai and quash the same.

For Petitioner : Mr.C.Emalias for
M/s.V.C.Vinoth Kumar
For Respondents : Mr.A.Gopinath for R1
Government Advocate (Criminal Side)
: Mr.G.Murugesh Kumar for R2

ORDER

This Criminal Original Petition has been filed to quash the proceedings in C.C.No.261 of 2020 on the file of the Judicial Magistrate No.I, Tambaram, Chennai.



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2. The case of the prosecution is that the suit property, situated at Plot No.10, 11 & 12 at Kannadasan Street, Archana Nagar, Peerankaranai Village, Tambaram, Chennai, admeasuring an extent of 1300, 1500 & 1638 sq.ft respectively, owned by one S.Pushpakantha, W/o.E.Vedachalam. She died on 14.11.2004. Utilising the said circumstances, his own son-in-law, impersonating as A2, executed a power of attorney in favour of A3 in respect of all the three plots by way of three power of attorneys on 08.02.2016. On the strength of the power of attorney, A3 had executed a sale deed in favour of A5, in which, A4 stood as witness. Hence, the complaint.

3. On receipt of the complaint, no FIR was registered initially. Thereafter, as directed by this Court, the first respondent registered FIR in Crime No.43 of 2017 for the offences under Sections 419, 465, 467, 468, 471 & 120B of IPC. After completion of investigation, the first respondent filed final report and the same has been taken cognizance in C.C.No.261 of 2020 on the file of the Judicial Magistrate No.I, Tambaram for the offences under Sections 406, 419, 420, 465, 467, 468, 471 r/w 34 & 120B of IPC.

4. The learned counsel for the petitioner would submit that the petitioner is arrayed as A5. He has nothing to do with the crime as alleged by



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the accused persons. The petitioner is an innocent bonafide purchaser and as such, no offence is made out as against the petitioner. The petitioner purchased the subject property by registered sale deeds dated 19.02.2016 & 28.03.2016. After purchasing the plots, he obtained planning permission from the authority concerned and started to put up construction. At that juncture, the daughter of the said S.Pushpakantha disturbed his possession and enjoyment of the subject property, as such, the petitioner was constrained to file a suit in O.S.No.235 of 2016 for bare injunction before the District Munsif Court, Tambaram. Thereafter, she filed a suit for declaration only in the year 2022 in O.S.No.36 of 2022 before the District Court, Chengalpattu. Both the suits are pending.

5. He further submitted that as against the sale deeds executed in favour of the petitioner, the second respondent filed a petition before the District Registrar to cancel the sale deeds and the same was dismissed. Aggrieved by the same, the second respondent filed an appeal before the Inspector General of Registration and the same was allowed and it was directed to cancel the sale deeds executed in favour of the petitioner. Therefore, the petitioner challenged the said order passed by the Inspector General of Registration in W.P.No.2425 of 2023, which is pending before this



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Court. Therefore, he has nothing to do with the crime as alleged by the other accused.

6. Per contra, the learned counsel for the second respondent submitted that the petitioner has also conspired with other accused persons and purchased the subject property for a very meagre sale consideration. The petitioner paid only a sum of Rs.15 Lakhs as sale consideration, that too, not under the registration of sale deeds. The petitioner has also conspired with the other accused persons and grabbed the properties belonging to the deceased S.Pushpakantha. He further submitted that they produced life certificate of Pushpakantha, in which, the petitioner was also signed. Therefore, he had knowledge about the impersonation to grab the property. The sale deeds, which were executed in favour of the petitioner, had been now annulled by the Inspector General of Registration, Chennai. The grounds raised by the petitioner can only be considered by letting in evidence.

7. The learned Government Advocate (Crl.Side) submitted that there are totally five accused, in which, the petitioner is arrayed as A5. He also colluded and conspired with other accused persons and grabbed the subject property. The second accused appeared before the Doctor and



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obtained life certificate by impersonating him as the deceased S.Pushpakantha. It shows that the petitioner also colluded with other accused persons and grabbed the entire property.

8. Heard the learned counsel appearing on either side and perused the materials available on record..

9. There are totally five accused, in which the petitioner is arrayed as A5. Even according to the prosecution, the petitioner purchased the subject property by three sale deeds dated 19.02.2016 & 28.03.2016. Originally, the subject property owned by one S.Pushpakantha. She died on 14.11.2004. She had two daughters . The husband of the first daughter was in possession of all parent documents of the subject property. Utilising the said circumstances, the first accused impersonated her mother-in-law, viz., S.Pushpakantha, by A2 and executed power of attorney in favour of A3 on 08.02.2016 vide document Nos.611, 612 & 613 of 2013 on the file of the Sub Registrar, Tambaram. In turn, the power holder executed sale deeds in favour of the petitioner vide Document No. 887, dated 19.02.2016, Document Nos.1698 & 1699, dated 28.03.2016. In both the Power of Attorney and the Sale Deeds, the 4th accused stood as witnesses. After



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purchase of three plots, the petitioner herein obtained planning permission and started to put up construction. In fact, he completed the construction by constructing plots and sold out to third parties.

10. A perusal of the records reveals that the only allegation is that the petitioner purchased the property from the power of attorney. However, the life certificate of the principal was also produced before the Sub Registrar, Tambaram. The life certificate was issued by a Doctor. It is seen that even before the Doctor, the impersonator had appeared and obtained life certificate. Though the signature of the petitioner was found in the life certificate, which was annexed along with the sale deeds and other documents, when the documents were presented before the Sub Registrar, so far, the Sub Registrar failed to register the sale deeds. Therefore, the petitioner did not obtain any life certificate by impersonating the principal. A1 and A4 conspired and they are the master mind behind the entire crime. So far as the petitioner is concerned, he is a bonafide purchaser and he has nothing to do with the crime. The petitioner is not a relative of A1 to A4. He is a builder. He used to purchase the property for developing. After development, he used to sell the property. Accordingly, he obtained planning permission and completed the construction. In fact, he also sold out.

11. In view of the above, no offence is made out as against the



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petitioner, since, he is a bonafide purchaser for valid sale consideration.

Therefore, the proceedings cannot be sustained as against the petitioner and it is liable to be quashed. Accordingly, this Criminal Original Petition stands allowed. The Trial Court is directed to proceed with the trial as against A1 and A4 and complete the same within a period of six months from the date of receipt of a copy of this order. Consequently, connected miscellaneous petition is closed.

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Index: Yes/No

Internet: Yes/No

To

1. The Judicial Magistrate No.I,
Tambaram.
2. The Inspector of Police,
Central Crime Branch – II,
Chennai.
3. The Public Prosecutor,
High Court, Madras.

G.K.ILANTHIRAIYAN,J.



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