



Crl.O.P.No.23686 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.07.2023

CORAM :

THE HONOURABLE MR. JUSTICE V. SIVAGNANAM

Crl.O.P.No.23686 of 2021
and
Crl.M.P.No.13845 & 13847 of 2021

A.Gurusamy

... Petitioner

Vs.

1.The State

Represented by the Sub-Inspector of Police,
District Crime Branch,
Kancheepuram.

2.V.Ravi

... Respondents

Prayer: Criminal Original Petition filed under Section 482 Cr.P.C. to call for the records pertaining to the proceedings in C.C.No.325 of 2015 on the file of the Judicial Magistrate Court No.II, Chengalpet and quash the same.

For Petitioner : M/s.Thenmozhi. R.

For R1 : Mr.L.Baskaran
Government Advocate (Crl. Side)

For R2 : Mr.S.Ilamparithi
(No appearance)



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ORDER

This Criminal Original Petition has been filed challenging the criminal proceedings in C.C.No.325 of 2015 on the file of the Judicial Magistrate Court No.II, Chengalpet.

2.The petitioner is the 1st accused in C.C.No.325 of 2015 and the 2nd respondent is the *de facto* complainant.

3.The case of the prosecution is as follows :

The 2nd respondent is doing real estate business. On 27.11.2007, one Mohan introduced the petitioner/A1 to the 2nd respondent. The petitioner showed the complainant a plot measuring 3727 sq.ft. in S.No.336/3 in Kattankolathur Village for sale. Pursuant to that, the petitioner received a consideration of Rs.16,00,000/- from the complainant in the presence of the said Mohan. The petitioner informed the complainant that one Jayaseeli (A2) is the Power Agent in respect of the aforesaid property and therefore, A2 entered into a sale agreement for sale of the property. However, when the 2nd respondent went to the Registration Office to ascertain the stamp value, he was informed that the subject property was acquired by CMDA in the year 1982 itself and hence, the document could not be registered. When the 2nd



respondent questioned about the same, the 1st petitioner demanded a further amount of Rs.2,00,000/- to set right the issue and accordingly, the 2nd respondent paid a further sum of Rs.2,00,000/- to the petitioner on 14.09.2009. While being so, when the 2nd respondent went to the subject property to measure the land, the petitioner threatened him of dire consequences. Therefore, the 2nd respondent lodged a complaint before the 1st respondent Police against the petitioner and the said Jayaseeli.

4.On the complaint made by the 2nd respondent, the 1st respondent Police registered a case in Crime No.85 of 2010 against the petitioner and the said Jayaseeli for the offences under Sections 468, 471, 420 and 506(ii) IPC. The 1st respondent Police, after investigation, filed a final report for the offences under Sections 465, 468, 420 and 421 IPC, which was taken cognizance by the Judicial Magistrate No.II, Chengalpattu, in C.C.No.325 of 2015, challenging which, A1 is before this Court.

5.Learned counsel for the petitioner/A1 submitted that the entire sale transaction is between the 2nd accused-Jayaseeli and the 2nd respondent/*de facto* complainant and the petitioner/A1 only signed the document as witness.

The learned counsel further submitted that the 2nd respondent has nowhere



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stated in the complaint that he paid the money to the petitioner and therefore, no offence is made out against the petitioner/A1. The learned counsel contended that the petitioner is only a real estate broker and he just introduced the 2nd accused to the 2nd respondent and the entire transaction is between these persons and the petitioner, who signed only as witness, is not involved in commission of any offence. Therefore, the learned counsel prays for quashing of the criminal proceedings against the petitioner.

6.Learned Government Advocate (Crl. Side) appearing for the 1st respondent Police submitted that the case is now pending before the trial Court for framing of charges and the date of next hearing is 02.08.2023.

7.Considered the submissions made by the learned counsel on either side and perused the entire materials available on record.

8.Perusal of records would reveal that the petitioner is the 1st accused in C.C.No.325 of 2015 on the file of Judicial Magistrate Court No.II, Chengalpattu. On the complaint lodged by the 2nd respondent, the 1st respondent Police registered a case in Crime No.85 of 2010 against the petitioner and one Jayaseeli for the offences under Sections 468, 471, 420 and



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506(ii) IPC, which culminated into C.C.No.325 of 2015 on the file of Judicial Magistrate No.II, Chengalpattu, for the offences under Sections 465, 468, 420 and 421 IPC.

9.It is the contention of the petitioner that there is no allegation that the petitioner had received any money from the complaint. However, on a perusal of the statement of the complainant/2nd respondent before the Police, it is seen that the 2nd respondent has specifically stated in his statement that it is the petitioner, namely Gurusamy, who received the amount from him and placed it on the table. Whether the petitioner received the amount and thereby cheated the complainant or not, is to be decided by the trial Court by appreciating the oral and documentary evidence let in by the parties. These disputed facts cannot be adjudicated by this Court while exercising its powers under Section 482 Cr.P.C. This Court, by exercising its powers under Section 482 Cr.P.C., cannot go into the validity or truthfulness of evidence of the parties.

10.The Hon'ble Supreme Court, in the cases of *State of Haryana and others v. Bhajanlal* reported in *AIR 1992 (604)*, *R.P.Kapoor v. State of Punjab* reported in *AIR 1960 SC 866* and *Neeharica Infrastructure Pvt. Ltd.*



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v. State of Maharashtra and others reported in *AIR 2021 SC 1918*, has laid

down the categories where the inherent powers of the High Court under Section 482 Cr.P.C. can be exercised and has also settled the principle that, in exercising its jurisdiction under Section 482 Cr.P.C., the High Court would not embark upon an enquiry as to whether the evidence in question is reliable or not and that is the function of the trial Magistrate and ordinarily, it would not be open to any party to invoke the High Court's inherent jurisdiction and contend that on a reasonable appreciation of the evidence, the accusation made against the accused would not be sustained.

11.This Court finds that the case on hand has not met the parameters laid down by the Hon'ble Supreme Court in the cases stated *supra*. Further, *prima facie*, when there is an allegation and material against the petitioner to proceed against him, this Court is not inclined to interfere with the criminal proceedings.

12.Therefore, this Criminal Original Petition is dismissed as devoid of merits. Consequently, connected miscellaneous petitions are closed.

13.07.2023

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To
WEB COPY

- 1.The Judicial Magistrate No.II,
Chengalpattu.
- 2.The Sub-Inspector of Police,
District Crime Branch,
Kancheepuram.
- 3.The Public Prosecutor,
High Court, Madras.



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V. SIVAGNANAM, J.

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