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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : **05.01.2023**

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THE HONOURABLE Ms. JUSTICE R.N.MANJULA

Crl.O.P No.24277 of 2019
and Crl.M.P. No.12833 of 2019

V.Suganya ... Petitioner

Vs.

1. The State represented by
   The Inspector of Police,
   Central Crime Branch Team-II,
   Central Crime Branch,
   EVR Salai, Chennai.
   Cr. No.34/2019

2. B.Sathish ... Respondents

Criminal Original Petition is filed under Section 482 of Criminal Procedure Code, to call for the records comprised FIR in Crime No.34 of 2019 pending on the file of the Inspector of Police, Central Crime Branch Team-II, CCB Chennai and quash the same against petitioner / Accused-4.

For Petitioners : Mr.M.Vimal Bobby Crimson

For Respondent-1 : Mr. A.Gopinath
Government Advocate (crl.side)
2 : No appearance

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ORDER

This Criminal Original Petition has been filed to call for the records comprised in FIR in Crime No.34 of 2019 pending on the file of the Inspector of Police, Central Crime Branch Team-II, CCB Chennai and quash the same against petitioner / Accused-4.

2. On the complaint given by the *de facto* complainant that his property was sold by the first accused to second accused in a fraudulent manner pursuant to his loan transaction with third accused and fourth accused, the present case has been registered. As per the case of the prosecution, the second respondent / *de facto* complainant and his sisters Kavitha and Ramya have acquired the subject house at Chitlapakkam having Survey No.320/35, 311/23 measuring an extent of 4013 sq.ft through a settlement deed executed by her mother Leelavathi vide document No.5530/2013. Since they were in need of financial assistance they approached one Venkatesan who in turn introduced the third and fourth accused who resides at Pallava Garden. The third and fourth accused have assured to give loan by getting the property documents as security. The second respondent had requested to give a loan for a sum of Rs.6,00,000/-

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and for which the third and fourth accused have agreed to give Rs.3,00,000/- as first installment by receiving the loan documents. When the second respondent approached the third and fourth respondent to receive the remaining sum of Rs.3,00,000/-, they insisted the second respondent to execute a power of attorney in respect of the property. The second respondent was reluctant to execute the power of attorney but however he was convinced by the third and fourth accused and thereafter the second respondent and his sisters have executed a power of attorney in favour of Vinayaga Achari (A1). Subsequently the defacto complainant had received the second installment for a sum of Rs.3,00,000/- through cheque. All of a sudden one official from LIC came to the house of the second respondent and told that a loan for a sum of Rs.1,33,00,000/- was obtained by mortgaging the house documents and if the loan is not repaid the house will be attached. After enquiry, the second respondent came to know that the first accused had created a fake life certificate and managed to sell the property in favour of one Jahubar Ali (A2). The said Jahubar Ali had obtained a home loan for a sum of Rs.1,33,00,000/- from LIC for the purpose of purchasing house. Since the accused had conspired among themselves and defrauded the second respondent and grabbed his house

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property, a complaint has been given by the second respondent and on which a case has been registered in Cr. No.34/2019 for the offences under Section 419, 468, 471, 420 & 120B IPC.

3. The learned counsel for the petitioner / fourth accused submitted that the petitioner who is the fourth accused is in no way connected to any of the allegations made in the complaint; she had not advanced any loan to the second respondent and she is not the power of attorney as well; no payment has been made to her account from any persons in connection with the alleged transactions; since the petitioner is not a beneficiary and no overt act has been alleged against her, the FIR as against the petitioner has to quashed.

4. The learned Government Advocate (Crl.side) submitted that the petitioner is a named accused who was introduced by one Venkatesan and the third and fourth accused only persuaded the defacto complainant to avail loan by handing over the property documents; they subsequently persuaded the second respondent to execute the power of attorney and facilitated for the occurrence to happen; hence the petition should be dismissed.

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5. On a perusal of the FIR it is seen that the third and fourth accused are said to have abused the financial demands of the second respondent and managed to get the power of attorney in favour of the first accused in respect of his house property. Later the first accused had transferred the title of the house property itself in favour of the second accused by obtaining a fake life certificate. If the LIC authorities did not approach the second respondent by telling that there was a house loan, the second respondent would not have known about the fraudulent activities committed by the accused.

6. As submitted by the learned Government Advocate, the petitioner is a named accused. The second respondent has made a specific allegation that he was introduced by Venkatesan to both the third and fourth accused and they assured him to give loan if he gives his property as security. Believing the words of the third and fourth accused, the second respondent had availed the loan by handing over the property documents and once again being influenced by them, he executed the power of attorney in favour of the first accused and lost the property. It is also submitted that investigation reveals that a fake account has been opened in the name of the

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second respondent and someone has impersonated the second respondent to facilitate the sale transaction to occur without any hassles.

7. Since the manner in which the occurrence is said to have occurred is a well planned execution, I feel that a thorough investigation should be conducted in order to unearth the truth. This is not a case which is fit to be quashed at the threshold stage itself against any of the accused without a proper investigation. Since the materials on records makes out a clear case against the accused including the petitioner, I do not find any merits to quash the FIR.

8. In view of the above stated reasons, this Criminal Original Petition is dismissed. Connected miscellaneous petition is closed.

05.01.2023

Index : Yes/No
Speaking Order / Non speaking order
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To:

1. The Inspector of Police,
   Central Crime Branch Team-II,
   Central Crime Branch,
   EVR Salai, Chennai.

2. The Public Prosecutor,
   High Court, Madras.

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R.N.MANJULA, J.,

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