



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12-10-2023

CORAM

THE HONOURABLE DR. JUSTICE G.JAYACHANDRAN

CrI. OP No.22718 of 2023

And

CrI.MP No.15877 of 2023

M.Muneeswaran

... Petitioner/Defacto Complainant

Vs.

1.The Commissioner of Police,
Greater Chennai,
Vepery,
Chennai.

2.The Sub Inspector of Police,
EDF-II, Team-IV,
Central Crime Branch,
Vepery,
Chennai-600 007.

... Respondents/Complainants



Prayer: Criminal Original Petition has been filed under Section 482 of the Code of Criminal Procedure, to order for re-investigation/denova/fresh investigation in connection with Crime No.77 of 2019 pending in CC No.4722 of 2020 on the file of the learned Metropolitan Magistrate, CCB-CBCID at Egmore.

For Petitioner	: Mr.M.Guruprasad for Mr.D.Lakshmipathy
For Respondents	: Mr.S.Udaya Kumar, Government Advocate (Criminal Side).

ORDER

This is a case where the allegation is of misusing the Power of Attorney Deed and executing the Sale Deed in favour of A-2 by producing fabricating Life Certificate. A-1, A-3 and LW-2 are the purchasers from A-2. LW-1, the defacto complainant, who is before this Court, seeking for re-investigation/denova/fresh investigation.

2. The contention of the petitioner is that by fabricating false Life Certificate, A-2 was able to sell the property of the petitioner in favour



of A-1, A-3 and LW-2. Therefore, the Investigation Officer, who investigated the case for an offence under Sections 406, 420, 465, 468, 471, 506 (i) IPC in Crime No.77 of 2019 pending in CC No.4722 of 2020 on the file of the learned Metropolitan Magistrate, CCB-CBCID at Egmore, Chennai, ought not to have filed an Alteration Report deleting Sections 465, 468 and 471 IPC.

3. The learned counsel for the petitioner/defacto complainant submitted that the Life Certificate produced at the time of registration is a fake document and it was so stated to the Investigation Officer during investigation.

4. The learned counsel for the petitioner further submitted that the Investigation Officer has not subjected the said Life Certificate for test of its genuineness. The Investigation Officer has not sent the document for Forensic Examination and he has not examined the two Doctors, who have attested the Life Certificate. The learned counsel for the petitioner further submitted that the Investigation Officer had not even superficially done proper investigation regarding the genuineness of the Life Certificate which



was produced before the Sub Registrar Office (SRO), Sembiam, while registering the three Sale Deeds fraudulently.

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5. This Court, on reading the 161 statement of the Sub Registrar (LW-7), finds that the Investigation Officer has sought for details from the Sub Registrar Office (SRO), Sembiam, as to whether while registering these three Sale Deeds, the Life Certificate of the owner has been produced and if not produced, the reason for not accepting it. However, the witness had not answered to this question. Therefore, it appears that no investigation has been conducted by the Investigation Officer.

6. As pointed out by the learned counsel for the petitioner, at that relevant point of time, without the Life Certificate of the principal owner, the Sale Deed through Power Agent was not permissible. Therefore, the registration of Sale Deed fraudulently was made possible because of the fabricated Life Certificate and hence fabrication of the document is intrinsically connected with the crime and, therefore, the perfunctory investigation regarding the Life Certificate and deleting the offence under



Sections 465, 468 and 471 IPC had drastically affected the investigation.

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7. Section 173(8) of the Criminal Procedure Code deals with further investigation in respect of an offence after Report under sub section (2) to Section 173 of the Code is filed, though predominantly, it is the prerogative of the Investigation Officer to invoke Section 173(8) of the Criminal Procedure Code. When it is brought to the notice of this Court, the Court cannot close its eyes and allow to proceed with the trial leading to cause prejudice to the fair trial.

8. Therefore, as pointed out earlier, in this case, further investigation in respect of Life Certificate, which forms part of the documents produced before the Sub Registrar Office (SRO), Sembiam, for registering the three Sale Deeds, is essential and, hence, further investigation is ordered. The Investigation Officer shall collect the original of the Life Certificate, get opinion from the Expert and also record the statements of the persons, who all are privy to the documents and file the Additional Final Report with necessary alteration of charges, if necessary. The time for completion of further investigation is three months.



9. With the above directions, this Criminal Original Petition is disposed of. Consequently, the connected Criminal Miscellaneous Petition is closed.

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Index : Yes/No
Internet: Yes/No
Speaking order/Non-Speaking order
Neutral Citation : Yes/No
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To

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- 1.The Metropolitan Magistrate,
Metropolitan Magistrate Court,
CCB-CBCID at Egmore.
Chennai.
- 2.The Commissioner of Police,
Greater Chennai,
Vepery,
Chennai.
- 3.The Sub Inspector of Police,
EDF-II, Team-IV,
Central Crime Branch,
Vepery,
Chennai-600 007.
- 4.The Public Prosecutor,
High Court of Madras,
Chennai.



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DR.G.JAYACHANDRAN, J.

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