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CRL.O.P.Nos.30536 and 19909 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.10.2023

CORAM:

THE HONOURABLE MR.JUSTICE **G.K.ILANTHIRAIYAN**

Crl.O.P.Nos. 30536 &19909 of 2019

and

Crl.M.P.Nos. 16553 and 16554 of 2019

M.Kumar

... Petitioner in
Crl.O.P.No.30536 of 2019

1.R.Mathiazhagan

2.Rajini Kumar Rai

...Petitioners in
Crl.O.P.No.19909 of 2019

Vs.

1. Inspector of Police,
District Crime Branch,
Villupuram.

2.P.J.Ethiraj

... Respondents in Both Crl.O.Ps

COMMON PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C. praying to call for the entire records in C.C.No.243 of 2017 on the file of the Judicial Magistrate I, Villupuram and quash the same in so far as the petitioner concerned.



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In all Crl.O.Ps

For Petitioners : Mr.D.Nellaiappan

For Respondents

For R1 : Mr.L.Baskaran

Government Advocate (Crl.Side)

For R2 : Mr.S.Vinod

ORDER

These petitions have been filed to call for the entire records in C.C.No.243 of 2017 on the file of the Judicial Magistrate I, Villupuram and quash the same in so far as the petitioner concerned.

2. The case of the prosecution is that the second respondent lodged a complaint alleging that, he was doing Textile business at Chennai and Puducherry. One Mathiazhagan is the friend of second respondent and one Rajini Kumar Rai the friend of Mathiazhagan. The second respondent approached Mathiazhagan to purchase a land at Puducherry. Mathiazhagan and Rajini Kumar Rai represented one Kumar, who has land measuring 8 ½ situated in Villianur and willing to sell at the cost of Rs.3,00,00,000/- . It is alleged that this is a false representation that Mathiazhagan and Rajini Kumar Rai along with Kumar conspired together with intention to cheat the 2nd respondent and induced him to part with a sum of Rs.3,00,00,000/-.



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3. The further case of the prosecution is that Mathiazhagan and Rajini Kumar Rai got two sale deeds executed by Kumar, in respect of the lands which Mathiazhagan and Rajini Kumar Rai promised to secure for the second respondent. When 2nd respondent raised a question, Mathiazhagan and Rajini Kumar Rai replied that Kumar is not willing to sell the property, therefore they both had to purchase the same by registered sale deeds and executed a Power of Attorney in respect of the property comprised in Survey No.154. On realising that 2nd respondent was cheated, he went to the house of Mathiazhagan and demanded money from him and Mathiazhagan threatened the 2nd respondent. Hence, the complaint was lodged. On receipt of the said complaint, FIR in Crime No.24 of 2012 was registered for the offence under Section 406, 420, 120(b) and 506 (1) of IPC. After completion of investigation, the first respondent filed final report and the same has been taken cognizance in C.C.No.243 of 2017 on the file of the learned Judicial Magistrate No.I, Villupuram.

4. The learned Counsel for the petitioners submitted that no offence is made by the petitioners. Since, entire transactions are civil in nature. In fact, the second respondent also filed the suit in O.S.No.247 of 2013 for recovery of money to the tune of Rs.5.70 crore as against with the accused persons with the



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cost of 18% per annum. The second respondent also insisted to execute power of attorney in favour of his son, on the same date in respect of the land purchased by the first and second accused. Accordingly, the power of attorney was executed and registered by A1 and A2 in favour of the son of the second respondent vide Doc. No.552/2011. That apart, the original parent deeds and also certified copies of the subject property were also secured by the second respondent. Accused also agreed to repay the loan amount within the stipulated time. Therefore, the second respondent never intended to purchase any land and A1 and A2 have never received any amount. Therefore, no offence is made out against the petitioner.

5. There are totally 3 accused, in which petitioners are arrayed as A1 to A3. According to the second respondent, he paid a sum of Rs.3,00,00,000/- to purchase the property situated at Pondicherry. A1 and A2 misrepresented and induced the second respondent to pay sale consideration as if the the land was owned by the 3 accused persons. Subsequently, he came to understand that A1 and A2 registered a sale deed in their favour for the land comprised in R.S.No.154 and 155/2 situated at Villianur, measuring 8 ½ acres. Thereby, they cheated the 2nd respondent to the tune of Rs.3,00,00,000/-.



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6. On perusal of the statements recorded under section 161 of Cr.P.C, it revealed that there are specific allegations as against the petitioner in order to attract the offences in this regard. Hence, this Court is not inclined to quash the charge sheet in C.C.No.243 of 2017 on the file of the Judicial Magistrate I, Villupuram.

7. Accordingly, the Criminal Original Petitions are dismissed. Consequently, connected miscellaneous petitions are closed. No costs.

12.10.2023

Internet : Yes / No
Index : Yes / No
Speaking / Non Speaking order
dpa/sma

To

1. Judicial Magistrate I, Villupuram
2. The Inspector of Police,
District Crime Branch,
Villupuram.
3. The Public Prosecutor
Madras High Court.



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G.K.ILANTHIRAIYAN, J.

sma/dpa

Crl.O.P.No. 30536 of 2019

and

Crl.M.P.Nos.10177, 16553 and 16554 of 2019

12.10.2023