IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.11.2023

CORAM

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

Crl.O.P.No.25297 of 2023
and
Crl.M.P.Nos.17533 & 17534 of 2023

E.Jayakumar ... Petitioner

Vs.

1.State by
Sub-Inspector of Police,
Anti Land Grabbing Cell-II, Team-23A,
Central Crime Branch-III,
Vepery, Chennai – 600 007.
(Crime No.193 of 2023)

2.Saravanavel ... Respondents

Prayer: Criminal Original Petition has been filed under Section 482 of the Criminal Procedure Code, to call for records and quash the proceedings as against the petitioner in C.C.No.4727 of 2023 on the file of the Learned Metropolitan Magistrate for Exclusive Trial of CCB Cases (relating to Cheating Cases in Chennai) and CBCID Metro Cases, Chennai.

For Petitioner : Mr.A.Nagarajan

For R1 : Mr.S.Udaya Kumar
Government Advocate (Crl. Side)

O R D E R

This Criminal Original Petition is filed challenging the proceedings as against the petitioner in C.C.No.4727 of 2023 on the file of the Learned Metropolitan Magistrate for Exclusive Trial of CCB Cases (relating to Cheating Cases in Chennai) and CBCID Metro Cases, Chennai.

2. The respondent-Police has registered a F.I.R. in Crime No.193 of 2022 dated 09.09.2022 with the complaint given by one Mr.Saravanavel alleging that the properties which were settled by his father to him been sold to the petitioner and others by fabricating documents and impersonation. Narrating the chain of encumbrance created on the property of Mr.Saravanavel, the final report filed against seven persons in which the petitioner herein shown as seventh accused been the purchaser of the property.

3. The case of the prosecution has unfold from the statement of witnesses indicates that one Mr.Murugan purchased a piece of property from Mr.Govindarajalu and latter settled the property to his son Mr.Saravanavel by Settlement Deed in D.No.241 of 2018 dated 11.01.2018. The said property

subsequently been transferred by creating earlier Power of Attorney Deed dated 02.02.2021 as if Mr.Saravanavel was appointed one Mr.Punniyakodi as his agent. That Power of Attorney was cancelled by a Cancel Deed dated 09.04.2021 and the Sale Deed been created in favour of Mr.Punniyakodi as if Mr.Saravanavel sold the property to Mr.Punniyakodi on 21.04.2021.

4. The investigation indicates that the photo and thumb impression found in the Power of Attorney alleged to have been executed by Mr.Saravanavel in favour of Mr.Punniyakodi on 02.02.2021. Subsequently, cancellation of Power of Attorney on 09.04.2021 and in the Sale Deed dated 24.10.2021, the executant Mr.Saravanavel has been impersonated and the thumb impression differs.

5. As far as this petitioner is concerned, he had purchased the property from Mr.Punniyakodi on 25.11.2021. According to the prosecution, this petitioner had not re-conveyed the property to the original owner despite having put to notice about the forged document and therefore, he formed part of the conspiracy.

6. Learned counsel appearing for the petitioner states that the petitioner had purchased the property for valuable consideration based on the documents available from the Bank. The Title Deed documents produced by Mr.Punniyakodi was scrutinised by a legal team of the Bank from which he availed loan. The sale consideration was paid to Mr.Punniyakodi. However, the Police have not recovered any money from Mr.Punniyakodi, which has received from the petitioner herein through Bank transaction. Contrarily, for not re-conveying the property back to Mr.Punniyakodi, has arrayed in as accused.

7. Pointing out the conclusion of the final report, learned counsel for the petitioner would submit that the fair investigation conducted by the Investigation Officer for not recovering the money received from the petitioner herein instead of accusing the petitioner himself is nothing but a malicious prosecution.

8. From the records, it is clear that the person, who sold the property to the petitioner herein to Mr.Punniyakodi, who arrayed as A1. He is the person,

who received the sale consideration from the petitioner. Even if the conclusion of the Investigation Officer be taken as a reason for prosecuting the petitioner, the petitioner herein has to re-convey the property only to Mr.Punniyakodi and not to the de-facto complainant, since he has purchased the property from Mr.Punniyakodi not from the de-facto complainant and the payment of confirmation is well supported by documents.

9. In such circumstances, instead of arraying this petitioner as witness to the case, he has been arrayed as an accused. From the final report, this Court finds that there are three more accused suspected in this case and are absconding. The Investigation Officer has mentioned that in respect of those three absconding accused, investigation is going on and additional final report will be filed.

10. With the above circumstances, this Court allowed this Criminal Original Petition to quash the proceedings as against the petitioner / seventh accused in C.C.No.4727 of 2023, who is the purchaser of the property. The further investigation, which is conducted by the Investigation Officer shall complete after placing the source of the money received from the petitioner by

Mr.Punniyakodi and make an attempt to recover the same, if possible. The Investigation Officer shall make necessary request to the Court to add this petitioner as a witness for prosecution to enable the Court to arrive at just decision. However, connected Miscellaneous Petitions are closed.

16.11.2023

Jeni

Index : Yes / No
Neutral Citation : Yes / No
Speaking order / Non-speaking order

To

1.The Metropolitan Magistrate Court
For Trial of Land Grabbing Cases-II,
Periyamet, Chennai.

2.The Sub-Inspector of Police,
Anti Land Grabbing Cell-II, Team-23A,
Central Crime Branch-III,
Vepery, Chennai – 600 007.

3.The Public Prosecutor,
High Court of Madras,
Chennai.

<u>Dr.G.JAYACHANDRAN, J.</u>

Jeni

<u>Crl.O.P.No.25297 of 2023</u>

<u>16.11.2023</u>