



Crl.O.P.No.23417 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.07.2023

CORAM

THE HONOURABLE MR.JUSTICE V.SIVAGNANAM

Crl.O.P.No.23417 of 2018

and

CrL.M.P.No.13123 of 2018

M.Radhakrishnan

...

Petitioner

/vs/

1.The State Represented by

The Inspector of Police,

District Crime Branch,

Vellore District.

(Ref Crime No.44/2018 dated 18.09.2018)

2.Noorjagan

...

Respondents

PRAYER : Criminal Original Petition has been filed under Section 482 of Criminal Procedure Code to call for the records and quash the investigation in Crime No.44 of 2018 on the file of the Inspector of Police, District Crime Branch, Vellore District for offences under Section 420 and 506(i) IPC.

For Petitioner

...

Mr.R.Naresh Kumar

For Respondent
No.1

...

Mr.L.Baskaran
Govt.Advocate (Crl.side)

For Respondent
No.2

....

No appearance



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ORDER

Challenging the FIR registered in Crime No.44 of 2018 by the respondent police for the offences punishable under Sections 420 & 506(i) IPC in pursuance of the complaint given by the complainant, Noorjagan, the present criminal original petition has been filed.

2.The learned counsel appearing for the petitioner submitted that the petitioner/accused entered into a sale agreement with the second respondent /defacto complainant Noorjagan on 18.08.2016 for selling the property in survey No.130/1 measuring an extent of 32 Cents at Rasathupuram Village, Arcot Taluk, Vellore District for a sale consideration of Rs. 83,71,200/- and also received a sum of Rs.2,00,000/- as advance on the date of sale agreement. In this regard, time was fixed for three months, within that period, the defacto complainant had not come forward with the payment of balance sale consideration and to get the sale deed. Hence, the petitioner issued a legal notice to the defacto complainant on 09.03.2018 seeking to pay the balance sale consideration and to come forward to execute the sale consideration, but she failed and also entered into another agreement with the petitioner on 02.02.2017 measuring an



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extent of 4578Sq.Ft. At Old Nanjai No.130, New Survey No.130/1A at Rasathapuram Village, Arcot Taluk, Vellore District, for a sale consideration of Rs.27,47,800/- and fixed three months time for completing the sale and also received a sum of Rs.3,00,000/- as advance. Thereafter, the defacto complainant had not come forward to execute that agreement also. Under these circumstances, after issuing legal notice and after the completion of period fixed in the sale agreement, the petitioner alongwith one Sakunthala, owner of the property, sold the same to the third party. Therefore, the defacto complainant filed a complaint and since it is of a civil nature, there is no criminal element for registering a case against the petitioner, hence, seeking to quash.

3.When the matter is taken up for hearing, the learned Govt.Advocate (Crl.side) appearing for the first respondent submitted that in this matter, investigation is pending. Further, submitted that this petitioner is a land broker and executed many agreements to so many persons.

4.I have considered the matter in the light of the submissions made



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by the learned counsel for the petitioner as well as the learned Government

Advocate (Crl.side) for the first respondent.

5.On perusal of the materials on record and the impugned FIR, it is seen the allegation that the second respondent /defacto complainant Noorjagan W/o.Babu Sheriff entered into a sale agreement with the petitioner/accused with regard to purchase of property in survey No.130/1 measuring an extent of 32 Cents at Rasathupuram Village, Arcot Taluk, Vellore District for a sale consideration of Rs.83,71,200/- and also the petitioner received a sum of Rs.2,00,000/- as advance on the date of sale agreement. subsequently, with regard to the another property, executed another sale agreement on 02.02.2017 with regard to some other property. The time limit fixed for execution of both the sale consideration is three months. Since the defacto complainant failed to pay the balance sale consideration, the petitioner issued legal notice through his lawyer about the payment of balance sale consideration, otherwise, the defacto complainant will loose the advance amount. In spite of that legal notice, the defacto complainant had not turned up to pay the balance sale consideration and get the sale deed. It is to be noted that the petitioner is



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not an owner of the property, he is only a land broker. It is also mentioned in the sale agreement that Sakunthala owner of the property has to execute the sale deed. Since the defacto complainant had not come forward to pay the balance sale consideration and get sale deed, the said Sakunthala sold the property to one Swaminathan. This fact is not disputed.

6.Further, it is admitted that there is an agreement between the petitioner and the defacto complainant. It is not disputed that the petitioner has received earnest money from the defacto complainant. After issuing legal notice informing the forfeiture of the earnest money, the original owner of the property Sakunthala sold the property to the proposed purchaser. Under these circumstances, there is no criminal offence made out under Sections 420 and 506(i) IPC as the dispute involved herein is of civil in nature. It meets the parameter laid down by the Hon'ble Supreme Court in ***R.P.Kapoor Vs. State of punjab*** reported in ***AIR 1960 SC 866***, ***State of Haryana and others Vs. Bhajanlal*** reported in ***AIR 1992 (604)***, the FIR is liable to quashed.



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7.In view of the above, the matter being a civil in nature and there is no criminal element involved in this case and it meets the parameter laid down by decisions of the Hon'ble Supreme Court in ***R.P.Kapoor Vs. State of punjab*** reported in ***AIR 1960 SC 866***, ***State of Haryana and others Vs. Bhajanlal*** reported in ***AIR 1992 (604)***, the impugned FIR registered in crime No.44 of 2018 by the respondent under Sections 420 & 506(i) IPC is hereby quashed. Accordingly, the criminal original petition is allowed. Consequently, the connected miscellaneous petition is closed.

Index : Yes/No
Internet : Yes/No
sms
To

07.07.2023

1.The State Represented by
The Inspector of Police,
District Crime Branch,
Vellore District.

2.The Public Prosecutor,
High Court, Madras.

V.SIVAGNANAM,J.

sms



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