



CrI.O.P(MD).No.1004 of 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved On : 08.09.2023

Delivered On : 29.09.2023

CORAM:

**THE HONOURABLE MR. JUSTICE P. DHANABAL**

CrI.O.P(MD).No.1004 of 2019

and

CrI.M.P.(MD)Nos.429 and 430 of 2019

Sudharsan Babu

...Petitioner

Vs

1.The State rep. by,  
The Inspector of Police,  
District Crime Branch,  
Ramanathapuram District,  
Crime No.1 of 2018

2.Manish Kothari

...Respondents

PRAYER: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, praying this Court to call for the records relating to the impugned charge sheet in C.C.No.112 of 2018 on the file of the learned Judicial Magistrate Court No.II, Ramanathapuram and quash the same as illegal as against the petitioner's concerned.

|                                |                                                    |
|--------------------------------|----------------------------------------------------|
| For Petitioners                | : Mr.K.Sivabalan                                   |
| For 1 <sup>st</sup> Respondent | : Mr.R.M.Anbunithi<br>Additional Public Prosecutor |
| For 2 <sup>nd</sup> Respondent | : Mr.Rajendran Raguram                             |



CrI.O.P(MD).No.1004 of 2019

## **ORDER**

WEB COPY

This petition is filed to quash the charge sheet in C.C.No.112 of 2018 pending on the file of the Judicial Magistrate Court No.II, Ramanathapuram.

2.According to the petitioner, based on the complaint given by the second respondent, the first respondent has registered a case in Crime No.1 of 2018 for the offence under Sections 420, 465, 467, 468, 120B of IPC as against one Muthuramalingam and 3 others. Thereafter, the first respondent conducted investigation and filed final report. Based on the final report, the trial Court has taken cognizance in C.C.No.112 of 2018 for the offence under Section 465, 468, 467, 420 r/w. 120(B) of IPC.

3.The prosecution case is that one Muthuramalingam has been appointed as Additional Director in Internet Innovation India Private Limited in order to purchase the property in favour of the Company. Even after removing the Directorship, the said Muthuramalingam and A2 who is the son of the said Muthuramalingam created the encumbrance in the Company's property by executing sale deed in favour of the A3 and the petitioner herein A4. Further A2 again sold the property to 12 witnesses and deposited a sum of Rs.52,68,000/- in favour of the second respondent's account and it has been



Crl.O.P(MD).No.1004 of 2019

withdrawn. Hence, they are cheated 12 witnesses as well as the second respondent. Hence, this case.

4.In fact there are no specific allegations as against this petitioner and this petitioner was arrayed as A4. In fact this petitioner is bonafide purchaser and he purchased the property on 24.02.2015 through registered sale deed for valuable consideration and there are no specific allegations against this petitioner and there is no specific overt act attributed against the petitioner in the charge sheet. Further the offence under Section 465, 468, 467, 420 r/w. 120(B) IPC were not attracted. Further the defacto complainant filed civil suit in O.S.No.53 of 2016 on the file of the Sub Court, Ramanthapuram and the same is pending.

5.According to the prosecution, the A1 Muthuramalingam was removed from Additional Director on 11.08.2015. All the transaction had happened much earlier to 11.08.2015. Further the second respondent and his wife have received Rs.52,68,000/-. Hence, the second respondent himself accepted the sale consideration and thereby, the offence under Section 420 of IPC would not attract and no prior meeting of minds between the accused to attract the offence of conspiracy. The first respondent without conducting proper investigation, filed final report and the same was taken cognizance by the



Crl.O.P(MD).No.1004 of 2019

learned Judicial Magistrate. Therefore, the pending charge sheet is liable to be quashed.

6.The second respondent filed a counter stating that A1 was appointed as Non Executive Additional Director of second respondent's Company for convenience of registering property in the State of Tamil nadu in the name of Company . Further knowing with A1 was acting against the interests of the Company, he was removed from the Director vide the Board Resolution on 11.08.2015. Even after the removal from Directorship, A1 chosen to create encumbrance over the property. A2 is the son of A1. A3 is a close friend of A2. A4 is the son of one Politician G.Muniyasamy. This petitioner being A4 is the master mind of the case including the prime accused. The said Muniyasamy with the support of police and Sub Registrar instigated the son to grab the land of second respondent's Company for developing his own business to an extent of 51 acre by creating 70 fraudulent sale deeds in different names of the localities by conspiring with A1. After investigation, the police Officials have not investigated the case in a proper manner and they left some other accused. However, they filed final report against this petitioner and others. The Sub Registrar, Ramanathapuram also conspired with the other accused. Therefore, all the accused have created and forged the sale deed.

Already the suit in O.S.No.53 of 2016 filed by the second respondent against



Crl.O.P(MD).No.1004 of 2019

A1 and A2 and the same is still pending before the learned Sub Judge, Ramanathapuram. Further A1 already filed W.P.(MD)No.24913 of 2018 pertaining to be Managing Director of second respondent's Company who was already terminated from Company in the year 2015 itself. The Deputy Superintendent of Police, Ramanathapuram has wrongly given no objection for registration of the sale deeds, which was already stopped by the complaint of the second respondent. The second respondent does not know about the credit of the aforesaid account and immediately after the credit of amount he gathered details and sent necessary information to the Deputy Superintendent of Police through email on 17.01.2013 and the second respondent also informed the police that he is ready to deposit before the Police. Therefore, *prima facie* materials available as against the petitioner and at this stage, this petition is liable to be dismissed.

7.The learned counsel appearing for the petitioner has argued that one Muthuramalingam was appointed as Director of the second respondent Company and thereby, he engaged in purchase of properties in the name of the Company and he executed sale deeds in favour of the Company. While so, the second respondent has given a false complaint as against this petitioner and others alleging that the said Muthuramalingam was removed from the Directorship and he created false document and executed sale deeds. In fact



Crl.O.P(MD).No.1004 of 2019

the petitioner is a bonafide purchaser for valuable consideration and he purchased the property on 24.02.2015 through sale deed and the A1 was removed from Directorship on 11.08.2015. The aforesaid transaction happened much earlier to the date of 15.08.2015. There is no specific allegations and specific overt act attributed against the petitioner in the charge sheet. In order to attract an offence of criminal conspiracy, there must be prior meeting of minds between the accused persons and the petitioner cannot be prosecuted in the absence of any averments in the charge sheet for the offence under Sections 420, 465, 471, 468 r/w 120B of IPC. Without proper investigation, the first respondent filed charge sheet and the same is abuse of process of law.

8.The learned counsel appearing for the second respondent would contend that one Muthuramalingam was appointed as Additional Director to purchase the property in the name of the Company and thereafter, he was removed from the Directorship on 11.08.2015. Thereafter, he conspired with other accused in order to swindle the second respondent's Company and later they executed sale deed in respect of 51 acres and the Deputy Superintendent of Police also colluded with this petitioner and other accused. The Police also not properly investigated the case and left the other accused, who are also involved in this case. Even as per the final report, there are *prima facie*



CrI.O.P(MD).No.1004 of 2019

available as against this petitioner and the alleged offence are serious in nature. Huge extent of property is involved in this case and therefore, this is a matter of trial and the petitioner has to face the trial. At this stage, this petition has to be dismissed.

9.The learned Government Advocate appearing for the first respondent contended that based on the complaint given by the second respondent, the first respondent registered a case and thereafter, investigated the case and filed final report and the same was taken cognizance by the Judicial Magistrate Court No.II, Ramanathapuram in C.C.No.112 of 2018. Therefore, as per final report, there are *prima facie* materials available as against the petitioner. At this stage, the petitioner has to face trial. Hence, this petition is liable to be dismissed.

10.Heard both sides and perused the materials available on records.

11.The contention of the petitioner is that he has not involved in the occurrence and already one Muthuramalingam A1 was appointed as Additional Director of the Company and under the capacity of Directorship, he entered into sale proceedings on behalf of the Company. This petitioner has purchased the property for valuable consideration and he is a bonafide



Crl.O.P(MD).No.1004 of 2019

purchaser. There is no iota of evidence to constitute the offence of conspiracy, cheating and forgery.

12.The contention of the second respondent is that already the matter was elaborately investigated by the respondent police. As per the investigation, there are *prima facie* materials available and so many witnesses were examined. Thereby, the petitioner has to face the trial and it is matter of trial.

13.It is admitted fact that the A1 Muthuramalingam was appointed as Additional Director of the second respondent's Company and he was removed from the Directorship on 11.08.2015. Thereafter, the A1 involved in several transactions in the name of the Company. The allegation as against A1 is that even during his tenure as the Director of the Company, he acted against the Company and he committed forgery and cheated the Company. This petitioner A4 purchased the property after knowing the status of the A1 and all the accused conspired together and created documents. The allegation of conspiracy is matter of trial. These allegations are grave in nature. The first respondent Police have elaborately investigated the case. As per investigation, there are *prima facie materials* available to proceed with the case. As per the second respondent, this petitioner is the main accused for conspiracy. The



Crl.O.P(MD).No.1004 of 2019

grounds raised by the petitioner are nothing but defence to be taken before the trial Court, which is the matter of trial. This Court at this stage cannot test the veracity of the statement and records collected during the investigation. Therefore, it is the matter of trial.

14.Further this Court would like to rely upon the guidelines framed by the Hon'ble Supreme Court in the case of *Neeharika Infrastructure Pvt. Ltd. v. State of Maharastra and Others* reported in *2021 SCC Online SC 315*. As per the guidelines, no grounds made out to quash the charge sheet in this case.

15.In view of the said judgment and as discussed above and considering the facts and circumstances of the case, this Court is declined to quash the charge sheet at this stage and this petition is liable to be dismissed.

16.Accordingly, this Criminal Original Petition is dismissed. Consequently, connected miscellaneous petitions are closed.

**29.09.2023**

NCC : Yes/No  
Internet : Yes/No  
Index : Yes/No  
Mrn

<https://www.mhc.tn.gov.in/judis>



Crl.O.P(MD).No.1004 of 2019

**P. DHANABAL,J.**

Mrn

To

- 1.The Judicial Magistrate No.II, Ramanathapuram.
- 2.The Inspector of Police,  
District Crime Branch,  
Ramanathapuram District.
- 3.The Additional Public Prosecutor,  
Madurai Bench of Madras High Court, Madurai.

Crl.O.P(MD).No.1004 of 2019

29.09.2023