



WEB COPY

Crl.O.P(MD).No.1443 of 20



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 13.07.2023

CORAM:

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

Crl.O.P(MD).No.1443 of 2019

and

Crl.M.P.(MD)Nos.717 and 718 of 2019

R.Karmugilan

...Petitioner

Vs

1.State through

The Inspector of Police,  
Prevention of Land Grabbing (Special Cell)  
District Crime Branch,  
Theni District, Theni.

2.S.M.C.Pillai

...Respondents

PRAYER: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, praying this Court to call for the records and quash in C.C.No.14 of 2018 on the file of the learned Judicial Magistrate (Special Court for Land Grabbing Cases), Theni in so far as the petitioner concerned.

|                                |                              |
|--------------------------------|------------------------------|
| For Petitioner                 | : Mr.G.Prabhu Rajadurai      |
| For 1 <sup>st</sup> Respondent | : Mr.R.M.Anbunithi           |
|                                | Additional Public Prosecutor |
| For 2 <sup>nd</sup> Respondent | : Mr.H.Arumugam              |

### **ORDER**

This petition is filed to quash the charge sheet in C.C.No.14 of 2018, pending on the learned Judicial Magistrate (Special Court for Land Grabbing Cases), Theni.



2. According to the petitioner, the second respondent has given a complaint as against him. Based on the complaint, the first respondent registered a FIR in Crime No.17 of 2017 for the offences under Sections 420, 465, 468, 471 of IPC and the case was taken on file in C.C.No.14 of 2018 for the offences under Sections 120B, 420, 465, 468 and 471 r/w. 34 of IPC before the learned Judicial Magistrate (Special Court for Land Grabbing Cases), Theni.

3. According to the petitioner, he purchased the property on 24.03.2005 through sale deed and the said sale deed was executed through power agent of one Athil Ameer. Before purchasing the property, he enquired about the property and after verifying the valid patta pass book and other documents, only then he purchased the property. The vendor of the petitioner has purchased the property in the year 1999 through a registered sale deed. While the facts are being so, in the month of November 2017, the petitioner's mother received summons to enquire into the complaint lodged by the second respondent stating that the suit property belongs to the second respondent and then only the petitioner came to know about the registration of the FIR in Crime No.17 of 2017 dated 24.10.2017. Further in the FIR alleged that the second respondent got sale deed on 13.11.1995, in the name of his son for the same property. Thereafter, the petitioner has filed civil suit for the relief of



declaration and title in O.S.No.127 of 2017 before the District Munsif, Periyakulam and the second respondent also appeared and filed the written statement. The petitioner is the bonafide purchaser for valuable consideration and thereby, the registration of FIR is a clear abuse of process of law. Thereafter the first respondent has filed final report, and the same was taken on file by the Special Court for Land Grabbing Case, Theni in C.C.No.14 of 2018. Therefore, the charge sheet and FIR is an abuse of process of law. Hence, the case in C.C.No.14 of 2018 is liable to be quashed.

4.No counter was filed by the respondents.

5.The learned counsel appearing for the petitioner would contend that the petitioners has purchased the property for valuable consideration and he is the bonafide purchaser. He purchased the property in the year 2005 after verifying the parental deeds of the property and thereafter, he came to know that the second respondent also had a sale deed for the same property and the second respondent filed a complaint before the police and the civil suit is also pending between the parties. The title of the property has to be decided by the competent civil Court and thereby, the question of cheating and fabrication of forged documents for the purpose of cheating would not attract and thereby the charge sheet in C.C.No.14 of 2018 is liable to be quashed.



6.The learned counsel appearing for the second respondent has submitted that the second respondent in the year 1995 itself, purchased the property. In the year 2005, the petitioner along with others in order cheat the second respondent, created forged document and already the second respondent has given complaint before the first respondent police and also conducted thorough investigation and filed a final report and the same is also taken on file. The learned Judicial Magistrate after satisfying that prima facie materials available, proceeded with the case and has taken a case on file. The offences are serious in nature. The petitioner has to face the trial. Hence, the petition is liable to be dismissed.

7.The learned Government Advocate appearing for the first respondent has also contended that the second respondent had given a complaint and based on the complaint, FIR has been registered and thereafter, the first respondent Police conducted thorough investigation and examined the witness and filed a final report and the said final report was taken on file by the learned Magistrate and the case is pending for further proceedings. Further the offences are grave in nature and the petitioner has to face the trial before the trial Court and the present petition is liable to be dismissed.

8.This Court has heard both sides and perused the records.



9. On perusal of the records, it is observed that sale deed is in the name of the second respondent is dated 11.09.1995 and the sale deed in the name of the petitioner is dated 24.03.2005. Further the vendor of the petitioner originally purchased the property on 10.03.1999 and thereafter patta pass book was also transferred. However the sale of second respondent is much prior to the date of this petitioner. Further already the first respondent has conducted thorough investigation and thereafter, filed a final report. The trial Court also after perusal of records came to the conclusion that prima facie materials available to proceed with the case and taken on cognizance and the case is pending for further adjudication. The charges against the petitioner are severe in nature and it needs elaborately trial and thereby this Court cannot invoke inherent power under Section 482 of Cr.P.C., at this stage. It is for the petitioner to approach the trial Court for appropriate remedy if no prima facie materials as against him.

10. With the observation and direction, this Civil Revision Petition is disposed of. Consequently, connected miscellaneous petitions are closed.

**13.07.2023**

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



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**P. DHANABAL,J.**

Mrn

To

- 1.The Judicial Magistrate (Special Court for Land Grabbing Cases), Theni.
- 2.The Inspector of Police,  
Prevention of Land Grabbing (Special Cell)  
District Crime Branch,  
Theni District, Theni.
- 3.The Additional Public Prosecutor,  
Madurai Bench of Madras High Court, Madurai.

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