



Crl.O.P(MD).No.3076 of 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 13.07.2023

CORAM:

THE HONOURABLE MR. JUSTICE P. DHANABAL

Crl.O.P(MD).No.3076 of 2019

and

Crl.M.P(MD) No.1715 of 2019

Mariyam Batcha

...Petitioner

Vs

1. The Inspector of Police
Tenkasi Police Station,
Tirunelveli District.

2. Noor Mohammed

... 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 proceedings in Crime No.684 of 2018 on the file of the first respondent police and quash the same as it has prima facie case as against the petitioner.

For Petitioner

For R-1

For R-2

: Mr.Ananth C.Rajesh

: Mr.M.Sakthikumar

Government Advocate(Crl.Side)

: Mr. V.Angusamy

ORDER

This Criminal Original Petition has been filed to quash the First Information Report in Crime No.684 of 2018 on the file of the first respondent police.



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2. The case of the petitioner is that the second respondent has lodged complaint before the first respondent police and based on the complaint given First Information Report in Crime No.684 of 2018 was registered for the offences under Sections 420,294(b) and 506(i) of IPC dated 31.12.2018. As per the case of prosecution the petitioner is doing real estate business in the name and style of Vivegam Real Estate and used to sell plots through instalment payments and after entire payment the concerned plot will be registered in the name of respective members. The defacto complainant is one of the agent who introduced members to join in the EMI Scheme. The members who paid the entire amount were not given plots and no registration of sale deed was made in favour of those members. Hence the defacto complainant lodged complaint before the first respondent, based on which the First Information Report has been registered. Infact the petitioner and one Singaraja started real estate business as partners in Tirunelveli District. Several projects are developed and the same were completed by making the poor people as owners of housing plots. One such project is Vetri Vivegam Real Estate at Kadayam in Tirunelveli District. In that village the lands are purchased in the name of the petitioner and other partner A.Singaraja. The project was started in the year 2008 and the same was completed in the year 2012 and totally 193 plots were booked by the agents by collecting amount from the respective individual. In that



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scheme the defacto complainant acted as one of the agent and introduced 14 persons. For that commission amount was also collected from the real estate firm. While the facts are being so, some new regulations were introduced in the registration of sale deed. For registration of sale deed the patta and revenue records are not changed in the name of the petitioner and his partner, hence they were constrained to file a writ petition before this Court in W.P(MD) No.860 and 861 of 2023 and the same were allowed by this Court on 11.01.2023. Based on the direction the respective lands were measured and the mutation of revenue records also made in the name of the petitioner and his partner. Pending the above revenue records name transfer proceedings, one of the agent Mr.Abdul Lafthif made a complaint before the first respondent and the first respondent without conducting proper enquiry had registered a case in Crime No.366 of 2014 on 19.09.2014 for the offences under Sections 420,406,341,294(b) and 506(i) of IPC. The first respondent police did not allow the petitioner and his partner to register the plots in the name of the respective individuals. Therefore there is no intention to cheat the defacto complainant, hence the petition is filed to quash the First Information Report.

3. The learned counsel for the petitioner contended that the petitioner has no intention to cheat the second respondent/defacto



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complainant and he has also taken steps to register the sale deed in the name of the members of the respective agents. While pending proceedings for transfer of patta in the name of the petitioner and his partner one of the agent has given a complaint and thereby the police have not allowed the petitioner to register the plots. Therefore First Information Report is liable to be quashed.

4. The learned counsel appearing for the second respondent/defacto complainant contended that for the past five years he did not take any steps to register the sale deed in favour of the members who have paid the entire amount and not even taken any steps to settle the matter, hence the petition is liable to be dismissed.

5.The learned Additional Public Prosecutor appearing for the first respondent has contended that based on the complaint given by the defacto complainant/second respondent the first respondent has registered the First Information Report and thereafter examined many witness. Since *prima facie* materials are available as against the petitioner they filed final report and the case was taken on file in C.C.No.49 of 2020 by the learned Judicial Magistrate, Tenkasi and the case stands posted for examination of witnesses.



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6. Heard both sides and perused the materials available on record.

7. Though the petitioner vehemently argued that he has no intention to cheat the second respondent/defacto complainant from the inception as contended by the learned Additional Public Prosecutor already the matter was elaborately investigated by the first respondent and thereafter they filed final report before the trial Court. The trial Court also posted the case for examination of witnesses. The offences charged against the petitioner are grave in nature and the same has to be adjudicated before the concerned Court and elaborate trial is required in this case. Further another First Information Report was also registered as against the petitioner by another agent and the same is also pending. Since the matter is posted for trial before the lower court it is for the petitioner to approach the trial Court to seek appropriate remedy but not through this petition. Therefore this Court is not inclined to quash the First Information Report at this stage.

8. At this juncture, the learned counsel for petitioner represented before this Court that trial is proceeding before the lower court and the trial Court may be directed to expedite the trial by a direction from this Court. Since the matter is pending from the year 2018 it is appropriate to direct the learned Judicial Magistrate, Tenkasi



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to dispose of the case within the stipulated time.

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9. Accordingly the learned Judicial Magistrate, Tenkasi, is directed to dispose of the case in C.C. No.49 of 2020, on merits and in accordance with law, as early as possible preferably within a period of six months from the date of receipt of a copy of this order, without being influenced by any of the observations made by this Court in this order.

10. With the above observation and direction, this Criminal Original Petition is disposed of. Consequently connected miscellaneous petition is closed.

13.07.2023

NCC : Yes/No
Internet : Yes/No
Index : Yes/No
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To

1. The Judicial Magistrate, Tenkasi
2. The Inspector of Police
Tenkasi Police Station,
Tirunelveli District.
3. The Additional Public Prosecutor
Madurai Bench of Madras High Court, Madurai



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P. DHANABAL,J.

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