



Crl.O.P.(MD)No.8109 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 04.08.2023

CORAM

THE HON'BLE MR.JUSTICE P.DHANABAL

Crl.O.P.(MD)No.8109 of 2021
and CRL.M.P(MD).Nos.4177 and 4178 of 2021

Shanmuga Rajeshwaran

... Petitioner

Vs.

1.The State through
The Inspector of Police,
District Crime Branch,
Madurai District.
Crime No.2 of 2012.

2.B.Dhanavalli

... Respondents

PRAYER : Criminal Original Petition filed under Section 482 of Criminal Procedure Code, to call for the records in C.C.No.587 of 2019 on the file of the Judicial Magistrate No.1, Madurai and quash the same insofar as the petitioner is concerned.

For Petitioner : Mr.Niranjan S.Kumar

For R1 : Mr.M.Sakthi Kumar
Government Advocate (Crl. Side)

For R2 : No-appearance



CrI.O.P.(MD)No.8109 of 2021

ORDER

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This Criminal Original Petition has been filed to call for the records in C.C.No.587 of 2019 on the file of the learned Judicial Magistrate No.1, Madurai and quash the same in respect of the petitioner herein.

2. According to the petitioner, he is doing real estate business. The second respondent has approached the petitioner for selling her house site situated at S.No.59/2, Chettikulam Village, Madurai North Taluk for urgent need of money for her daughter's marriage. At that time, the petitioner did not have money and hence, he introduced his friends, namely, Deena Dhayalan and Anbalagan, who are the accused Nos.2 and 3. Thereafter, the defacto complainant was dealing with the accused Nos. 2 and 3 and the petitioner had no nexus with the transaction between the defacto complainant and the other accused and he did not aware of the power of attorney deed executed by the defacto complainant. While so, the second respondent had given a complaint before the first respondent Police alleging that she approached the petitioner for obtaining loan to her daughter's marriage and he introduced the accused Nos.2 and 3 and



Crl.O.P.(MD)No.8109 of 2021

then, she borrowed a sum of Rs.2,00,000/- from the accused No.3 and deposited the title deeds. At that time, for security purpose, she executed a power deed in favour of accused No.3 and then, the second respondent approached the accused No.3 and returned the entire amount, but he refused to return the original documents. Thereafter, the second respondent came to know that the property was sold to the accused No.4 and then, she gave a complaint to the first respondent. Without properly enquiring the above facts, the first respondent has mechanically registered a case in Crime No.2 of 2012 against the petitioner and other accused persons for the offences punishable under Sections 120(B), 406 and 420 of IPC. Hence, the charge sheet laid against the petitioner is liable to be quashed.

3. No counter is filed by the respondents.

4. The learned counsel appearing for the petitioners submits that the second respondent had given a complaint before the first respondent Police alleging that she approached the petitioner for obtaining loan to her daughter's marriage and he introduced the accused Nos.2 and 3 and



Crl.O.P.(MD)No.8109 of 2021

then, she borrowed a sum of Rs.2,00,000/- from the accused No.3 and deposited the title deeds. At that time, for security purpose, she executed a power deed in favour of accused No.3 and then, the second respondent approached the accused No.3 and returned the entire amount, but he refused to return the original documents. Thereafter, the second respondent came to know that the property was sold to the accused No.4 and then, she gave a complaint to the first respondent. In fact, the petitioner is only an introducer and he did not aware of the fact as to whether the defacto complainant has sold the property to the other accused persons. He is no way connected with the alleged offence. However, the first respondent, without enquiring the matter properly, has registered a case against the petitioner and filed the final report. Therefore, he prays for quashing of C.C.No.587 of 2019 filed against the petitioner.

5. The learned Government Advocate (Criminal Side) appearing for the first respondent submits that the defacto complainant approached the petitioner for obtaining loan for her daughter's marriage. She deposited title deeds, but the petitioner obtained power of attorney deed



CrI.O.P.(MD)No.8109 of 2021

and thereafter, sold the property. There was no sale deed executed by the second respondent. The petitioner has cheated the second respondent and thereby, she gave a complaint before the first respondent, based on which, a case has been registered in Crime No.2 of 2012 and thereafter, the investigation was completed and the final report was filed. The same was taken on file in C.C.No.587 of 2019 by the learned Judicial Magistrate No.1, Madurai. The petitioner has two previous cases.

6. Heard the learned counsel appearing for the petitioner and the learned Government Advocate (criminal side) appearing for the first respondent.

7. According to the second respondent, she has received a sum of Rs.2,00,000/- (Rupees Two Lakhs only) and she deposited title deeds for the loan obtained by her for her daughter's marriage. But, according to the petitioner, he did not aware of the said deposit of title deeds and the execution of power of attorney. According to the complaint and the charge sheet, this petitioner only introduced the other accused (i.e.,) A2 and A3 and they obtained power deed and then, sold the property to the



Crl.O.P.(MD)No.8109 of 2021

accused No.4. After registration of FIR, the first respondent Police investigated the case and filed final report. As per final report, this petitioner also involved in this occurrence and he along with the accused Nos.2 and 3 promised to return the documents after discharging the entire loan amount. But the petitioner denied his involvement and he did not know about the said execution of deed. These facts to be elucidated through trial. The offences are also serious in nature and need elaborate trial. However it is an admitted fact that on the date of execution of power of attorney, the sale was not taken place but the sale receipt was obtained from the defacto complainant without any sale transaction. The issue with regard to the execution of power of attorney and the sale receipt have to be decided by the trial Court, after elaborate trial. At this stage, this Court cannot go into the veracity of the documents and the statements recorded by the prosecution.

8. The learned counsel appearing for the petitioner relied upon the judgment of the Hon'ble Supreme Court of India in the case of ***Mitesh Kumar J.Sha vs. The State of Karnataka and others*** in Crl.A.No.1285 of 2021 ***and MNG Bharateesh Reddy vs. Ramesh Ranganathan and***



Crl.O.P.(MD)No.8109 of 2021

another in Crl.A.No.1273 of 2022.

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9. The judgment relied upon by the petitioner will not be applicable to the present case, since in the present case, there are *prima facie* materials available against the petitioners. Therefore, as discussed supra, there are no sufficient grounds to quash the charge sheet as against this petitioner and in view of the guideline issued by the Hon'ble Supreme Court of India in the case of *Neeharika Infrastructure Pvt Ltd vs. State of Maharastra and Others reported in 2021 SCC Online SC 315*, this Court is declined to allow this petition.

10. In view of the above, this Criminal Original Petition is dismissed. Consequently, connected miscellaneous petitions are closed.

04.08.2023

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
ssb



CrI.O.P.(MD)No.8109 of 2021

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To

1. The Inspector of Police,
District Crime Branch,
Madurai District.
2. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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CrI.O.P.(MD)No.8109 of 2021

P. DHANABAL,J.

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CrI.O.P.(MD)No.8109 of 2021

04.08.2023