



Crl.O.P.(MD)No.8388 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 28.04.2023

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THE HON'BLE MR.JUSTICE G.K.ILANTHIRAIYAN

Crl.O.P.(MD)No.8388 of 2021

and

Crl.M.P.(MD)Nos.4309 of 2021 & 15825 of 2022

Pramod Kumar Tomar

... Petitioner

Vs.

1.State through
The Inspector of Police,
Thoothukudi DCB,
Thoothukudi District.
Crime No.8/2021

2.Kaliammal

... Respondents

PRAYER : Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to call for the records in pursuant to the Cr.No.8 of 2021 on the file of the District Crime Branch, Thoothukudi and quash the same as against the petitioner is concerned.

For Petitioner

: Mr.R.Anand,
for M/S.Sundaravel.M



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For R1

: Mr.R.M.Anbunithi,
Additional Public Prosecutor

ORDER

This Criminal Original Petition has been filed to quash the Cr.No.8 of 2021 on the file of the District Crime Branch, Thoothukudi as against the petitioner herein.

2.The case of the prosecution is that the defacto complainant purchased the land from Palaiya Thevar as per Doc.No.1136/79 in S.F.No.405/7 to an extent of 89 cents situated at Kalappaipatti Village, Kayathar Taluk, Thoothukudi District. Thereafter, the said property enjoyed by the defacto complainant. Subsequently, when saw in her land that solar power plant was erected and hence, she applied for encumbrance certificate and she came to know that in the year 1995, the accused persons had created forged power of attorney in favour of A4 and subsequently, A4 sold the land by executing forged sale deed in favour of A5 and subsequently, in the year 2017, A5 executed forged sale deed in favour of A6, who is authorized power agent of Rajasthan



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Renew Solar Power Plant and they erected Solar Power Plant in the defacto complainant's land. Hence the case.

3.It is seen from FIR that the defacto complainant owned property comprised in S.F.No.405/7 to an extent of 89 cents situated at Kalappaipatti Village, Kayathar Taluk, Thoothukudi District. It was purchased by her through registered sale deed in Doc.No.1136/1979 and she is in possession and enjoyment of the said property. Out of 1.78 acres, 89 cents was purchased by her without any sub division. However, she found that solar power plants were installed in her land. On verification, she came to know that A1 to A3 executed power of attorney vide Doc.No.478/1995 in favour of A4, as if they have title over the property. A4, in turn, executed sale deed in favour of A5 vide Doc.No.1042/1995. Thereafter, A5 in the year 2017 executed sale deed in favour of A6, namely the petitioner herein. From the date of purchase, the petitioner is in possession and enjoyment of the property by installing solar power plant. Even according to the second respondent, the sale deed was executed in favour of the petitioner in the year 2017. However, she lodged the complaint in the year 2021 only.



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4.The specific case of the second respondent is that after purchase of the said property, she was in possession and enjoyment of the property and when the solar power plants were installed by the petitioner herein, she came to know about the execution of power of attorney. That apart, A1 to A3 executed power of attorney in favour of A4 in the year 1995 itself. Immediately, A4 executed sale deed in favour of A5. Even from 1995, the second respondent was not in possession and enjoyment of the said property and she did not lodged any complaint.

5.Before lodging complaint, the second respondent filed a suit for declaration declaring that the power of attorney and subsequent sale deeds as null and void in O.S.No.87 of 2019 on the file of the Sub Court, Kovilpatti, as against the accused persons. While pending suit, there was some settlement arrived between the parties and all the issues were settled out of the Court and the second respondent filed a memo to not-press the suit. After recording the memo, the trial Court dismissed the suit as settled out of Court by judgment and decree dated 02.12.2020. Suppressing all these facts, the second respondent preferred complaint as



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against the defendants in O.S.No.87 of 2019. The second respondent failed to prove that the accused persons failed to comply the settlement arrived between the parties and she ought to have mentioned about the suit filed by her and the settlement arrived between them in the complaint. Without mentioning the same, she preferred a complaint against the petitioner, who is subsequent purchaser.

6.Admittedly, the petitioner had purchased the said property in the year 2017 vide Doc.No.2007/2017. Thereafter, the petitioner installed solar power plants and he is in possession and enjoyment of the property. Therefore, the petitioner is bonafide purchaser and he had nothing to do with the conspiracy with other accused persons, in order to cheat the second respondent. That apart, no other allegations attributed as against the petitioner to attract the offence punishable under Sections 120B, 467, 468, 471 and 420 IPC.

7.Therefore, this Court is of the view that the present FIR in Cr.No.8 of 2021 as against the petitioner is nothing but clear abuse of process of law and it is liable to be quashed. Accordingly, the First



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Information Report in Cr.No.8 of 2021 is quashed as against the petitioner herein.

8.In the result, this criminal original petition is allowed.

Consequently, connected miscellaneous petitions are closed.

28.04.2023

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

- 1.The Inspector of Police,
Thoothukudi DCB,
Thoothukudi District.

- 2.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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G.K.ILANTHIRAIYAN,J.

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