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Crl.O.P.No.1822 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.01.2024

CORAM :

THE HON'BLE MRS. JUSTICE T.V. THAMILSELVI

Crl.O.P.No.1822 of 2022
and Crl.M.P.No.741 of 2022

Shanmugam

... Petitioner

Versus

1.The State represented by the
Inspector of Police,
Forgery Wing, Team-33,
Central Crime Branch,
Vepery, Chennai-600 007.
Crime No.7 of 2018

2.R.Murali

... Respondents

PRAYER: Criminal Original Petition filed under Section 482 of the Criminal Procedure Code, pleaded to call for the entire records comprised in C.C.No.4682 of 2021 pending on the file of the Special Metropolitan Magistrate Court CCB & CBCID, Egmore, Chennai.

For Petitioner : M/s.M.Vimal Bobby Crimson
For Respondent 1 : Mr.S.Vinoth Kumar,
Government Advocate (Crl. Side)
For Respondent 2 : Notice sent



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ORDER

The petitioner has filed this petition to call for the entire records comprised in C.C.No.4682 of 2021 pending on the file of the Special Metropolitan Magistrate Court CCB & CBCID, Egmore, Chennai.

2. The learned counsel for the petitioner submitted that A1 and A2 had projected that they own 7739 Sq.ft of land in Puthampedu, Porur, Chennai and A1 and A2 were introduced to the petitioner through one Adhinarayana Rao of Saligramam. It is further stated that thereafter the petitioner had entered into the construction agreement with the landowners in the year 2012 and required power of attorney was executed in favour of the petitioner by A1 and A2 in document No.2541 of 2011. It is further stated that the defacto complainant has incurred an expenditure of Rs.20 lakhs for CMDA approval and other preliminary works and in order to get 2 crores in profit, 16 residential apartments were planned to be constructed on both developer and the landowners will have 50:50 share in the project and thereafter for some reason or other, the project could not take off, in the mean while Tamil Nadu Slum Clearance Board initiated acquisition proceedings which is defended



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and sort out by A1 and A2. He further submitted that the petitioner has been falsely implicated in this case and the de-facto compensation was also given Power of Attorney by A1 and A2 in Document No.1687 of 2013 after cancelling the Power of attorney granted to the petitioner and thus the defacto complainant was very much aware about the reason why the construction could not be progressed. The dispute between the de-facto complainant, A1 and A2 and they were jointly filed the Writ petition challenging the acquisition by the Tamil Nadu Slum Clearance Board. Hence, he prayed to quash the proceedings against the petitioner.

3. The learned Government Advocate (Crl.Side) submitted that the project will not take off as projected. The petitioner received a sum of Rs.20 lakhs from the defacto complainant for construction of flats in the property of A1 and A2. He further submitted that the petitioner dragged the defacto complainant into the trap and received around 20 lakhs for initial expenses and thereafter wriggled out of liabilities. He further submitted that based on the complaint lodged by the defacto complainant, case has been registered in Crime No.7 of 2018, after investigation filed a final report and the case has been taken in CC.No.4682 of 2021 on the file of Special Metropolitan Magistrate Court CCB & CBCID, Egmore, Chennai for the offences under



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Sections 420 of IPC read with Section 34 of IPC.

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4. According to the petitioner, the allegation in the complaint as well as the final report against him is not supported by any materials and in the absence of direct and indirect evidence, the 1st respondent has filed a final report. Further he would submit that as per the complaint given by the defacto complainant he cheated him and also caused loss to him in respect of Joint Venture Agreement entered between them. According to the complainant the property belongs to the Tamil Nadu Housing Board, but suppressing the said facts the complainant was forced to enter into joint vendor agreement by relying the information given by the petitioner and thereby caused loss to the tune of Rs.1,35,00,000/-, so the complaint arose and now the final report also filed. As per the prosecution submission the subject in issue of the property belongs to the Tamil Nadu Housing Board and without knowing the officials the petitioner entered into Joint vendor agreement with the defacto complainant hence the complaint arose. Admittedly, the land does not belong to the either side of the parties, but it belongs to the Tamil Nadu Housing Board as per the prosecution, so it needs detailed investigation. Therefore, I am not inclined to quash the proceedings in CC.No.4682 of 2021 on the file of Special Metropolitan Magistrate Court CCB & CBCID, Egmore, Chennai.



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Consequently, connected Miscellaneous petition is closed.

04.01.2024

Index : Yes/No
Speaking/Non Speaking order
Neutral Citation: Yes/No

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To

1.The Inspector of Police,
Forgery Wing, Team-33,
Central Crime Branch,
Vepery, Chennai-600 007.
Crime No.7 of 2018

2.The Public Prosecutor,
High Court of Madras.



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T.V.THAMILSELVI, J.

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