



Crl.R.C.No.250 of 2020

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DATED : 24.04.2024

CORAM

THE HONOURABLE MRS. JUSTICE **R. HEMALATHA**

Crl.R.C.No.250 of 2020 &
Crl.M.P. Nos.2241 & 2446 of 2020

A. Pradeep

... Petitioner

Vs.

State Represented by,
The Inspector of Police,
EDF-II, Team - IX (A)
Central Crime Branch, Egmore,
Chennai
(Crime No. 376 of 2018)

...Respondent

Prayer : Criminal Revision filed under Section 397 and 401 of Criminal Procedure Code 1973, to set aside the orders dated 06.11.2019, passed by the CCB & CBCID Metropolitan Magistrate, Egmore, Chennai 600 008, in Crl.M.P.No.6341 of 2019 in C.C.B. Crime No.376 of 2018.

For Petitioner : Mr.S.S. Swaminathan

For Respondent : Mr. S. Raja Kumar
Additional Public Prosecutor
Assisted by Ms.A. Shahana Fathima,
Government Advocate (Crl. Side)



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ORDER

The present Criminal Revision is filed against the orders dated 06.11.2019, passed by the learned CCB & CBCID Metropolitan Magistrate, Egmore, Chennai 600 008, in Crl.M.P.No.6341 of 2019 in C.C.B. Crime No.376 of 2018.

2. The revision petitioner Pradeep is the accused in Crime No.376 of 2018 of Central Crime Branch, Egmore. He filed an Anticipatory Bail Petition in Crl.O.P. No.682 of 2019, in which this Court had directed the present petitioner to pay a sum of Rs.1,25,00,000/- to the defacto complainant and a sum of Rs.2,60,00,000/- to the purchaser and hand over the entire possession of the property. Since this condition was not complied with by the present petitioner, he was arrested on 13.09.2019. Subsequently he filed a petition in Crl.O.P.No.25668 of 2019 seeking to enlarge him on bail, in which the learned Single Judge of this Court (Justice.C.V. Karthikeyan) passed the following orders on 03.10.2019.



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"4.As an alternate to depositing the said sum of Rs.2.60 crores, the learned counsel for the petitioner has produced the title deeds of the property, which, according to the learned counsel is valued more than Rs.2 crores and, therefore, the interest of the purchasers is protected.

5. The learned Government Advocate (Crl.Side) appearing for the respondent/police would submit that the value of the land now advanced is Rs.2.12. crores. It is stated with the building value, it might be a reasonable amount and it would be approximate to the value of sum of Rs.2.60 crores.

6. In view of the same, the petitioner is directed to hand over the original documents before the Metropolitan Magistrate, Special Court for CCB Cases, Egmore, Chennai. The learned Magistrate is requested to examine the original documents and thereafter, the petitioner is directed to hand over the xerox copy of the same, which the learned Magistrate shall keep in his custody.



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7. The petitioner is directed to file an affidavit, that he would not deal with the property in any manner. In case of urgency, he may obtain permission from the learned Magistrate. The custody of the documents with the learned Magistrate shall be subject to the result of the trial. The prosecution/respondent may also examine the possibilities, to attach and secure the property under the permissions of the criminal law ordinance, 1944."

2.1. Subsequently, the present revision petitioner filed a petition in Crl.M.P. No.6341 of 2019 in CCB Cr.No.376 of 2018 before the CCB & CBCID Metropolitan Magistrate, Egmore, Chennai, seeking interim custody of the original documents which were produced by the petitioner at the time of furnishing sureties as per the orders passed in Crl.O.P. No. 25668/2019.

2.2. The learned Metropolitan Magistrate dismissed the said petition on 06.11.2019, by observing thus:

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"8. Further, as per the above order of the Hon'ble High Court, Madras, this trial court has examined the original document and kept into the court custody. Now the case is in the stage of investigation. At this juncture, this court can not return the original document to the petitioner/accused.

"9. Considering the above stated fact and also considering the stage of case, this court is not inclined to return the original document to the petitioner/accused."

3. Aggrieved over by the above orders, the present Criminal Revision is filed.

4. The grievance of the revision petitioner is that the Metropolitan Magistrate, instead of returning the original documents of title deeds of the properties, which were handed over by the revision petitioner, retained the same, which is in contravention of the directions passed by this Court in Cr. O.P. No.25668/2019.



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5. Mr.S.S. Swaminathan, learned counsel for the revision petitioner would contend that subsequent to the grant of bail, the present petitioner paid a sum of Rs.1,25,00,000/- to the defacto complainant and a sum of Rs.2,38,00,000/- to the buyers. His further contention is that the defacto complainant and others had filed a suit in C.S. No.81 of 2020 against the present revision petitioner for recovery of a sum of Rs.1,31,00,000/- together with interest. According to him, a Single Judge of this Court in Application No.885 of 2021 in C.S. No.81 of 2020 had observed as follows on 20.04.2021.

3. This Court finds that the plaintiff being the promoter of the suit subject property had entered into sale agreement with the respondents 1 to 7 through their Power Agent/8 th respondent to promote the vacant land owned by the respondents 1 to 7. Pursuant to the sale agreement and joint venture agreement dated 25.10.2017 it is alleged that several crores had been invested by the plaintiff. But the respondents have not complied the terms of the joint venture agreement, which has lead to filing of criminal complaint.



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In the said criminal complaint, it appears that the 8th respondent on behalf of the respondents 1 to 7 has already paid a sum of Rs.1,25,00,000/- to the plaintiff and also given security to the plaintiff/buyer a sum of Rs.2,60,00,000/-. As per the schedule of payment claimed by the plaintiff, after defraying the above amount a balance sum of Rs.1,31,00,000/- and accrued interest at 18% now comes to Rs.2,39,18,494/-. Since the plaintiff has already received a sum of Rs.1,25,00,000/- as per the direction of this Court dated 17.06.2019 and further there is a security for the balance payment of Rs.2,60,00,000/-from out of the total suit claim of Rs.5,16,00,000/- the balance amount even according to the plaintiff to be paid by the defendant is Rs.1,31,00,000/- towards principal and the rest of the claim is towards interest.

6. The learned counsel for the revision petitioner filed a Compromise Memo signed by the parties and contended that since the



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petitioner had paid the entire amount due to the defacto complainant, the entire allegation in CCB Crime No. 376/2018 cannot be sustained and therefore, he prayed for return of the original title deeds of the petitioner's properties deposited by the petitioner with the Metropolitan Magistrate.

7. Per contra, Mr.S.Raja Kumar, learned Additional Public Prosecutor contended that this Court had already directed the trial Court to hand over the original documents by way of clarification orders dated 10.02.2021 by observing thus:

4. The learned counsel for the petitioner/accused further stated that the accused had filed an affidavit before the learned Metropolitan Magistrate undertaking that the petitioner would not deal with the property or create any encumbrance or charge and also would not even mortgage the property. However, in the interest of all the parties, it would only be appropriate that the original documents are handed over to the Metropolitan Magistrate Court for CCB



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According to him, the investigation is already completed and since there is a fraud to the tune of Rs.5,16,00,000/-, it may not be appropriate to return the documents at this stage.

8. This court initially, in Crl.O.P. No.25668/2019, directed the trial court judge to get the original title deeds for verification and hand over the same to the petitioner after getting a photostat copy. However, the trial court judge retained the original title deeds and dismissed the petition filed by the revision petitioner in Crl.M.P. No.6341/2019, as against which the present Criminal Revision case was filed. A single Judge of this Court (Hon'ble Mr. Justice P. Rajamanickam as he then was) posted the case for clarification from the very same judge on 09.03.2020 and accordingly the single Judge (Hon'ble Mr. Justice C.V.Karthikeyan) directed the trial court to retain the original title deeds.



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9. Now it is contended that the matter has been amicably settled between the parties and that the defacto complainant has to pay a sum of Rs.2,38,00,000/- to the present petitioner which he had paid to the buyers. The defacto complainant is not before this court. In the circumstances, the learned Government Advocate could not state anything with regard to the subsequent developments. This court cannot conduct any roving enquiry in this regard.

10. In the circumstances, the orders dated 06.11.2019, passed by the CCB & CBCID Metropolitan Magistrate, Egmore, Chennai 600 008, in Crl.M.P.No.6341 of 2019 in C.C.B. Crime No.376 of 2018, is set aside and the case is remitted back to the trial court to consider the subsequent developments in this case as contended by the counsel for the revision petitioner. All the signatories to the compromise memo dated 31.10.2022 and the defacto complainant and others who are involved in this case shall appear before the trial court. The trial court shall examine the parties and the compromise memo and pass appropriate orders on merits with the least possible delay.



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11. With the above observations, the Criminal Revision Case is disposed of. Consequently, connected miscellaneous petitions are closed.

24.04.2024

Index: Yes/No
Internet: Yes/No
Speaking/Non-Speaking order
bga

To

1. The CCB & CBCID Metropolitan Magistrate, Egmore,
Chennai 600 008,
2. The Inspector of Police,
EDF-II, Team - IX (A)
Central Crime Branch, Egmore, Chennai (Crime No. 376 of 2018)



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