



Crl.O.P.No.11538 of 2022

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.02.2024

CORAM:

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

Crl.O.P.No.11538 of 2022

and

Crl.M.P.Nos.6595 & 6596 of 2022

T.Arumuganathan

.. Petitioner

Vs

Kanagarathinam
rep. by power agent
Chandrasekaran

... Respondent

PRAYER : Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to call for the records pertaining to C.C.No.189 of 2018 on the file of the Judicial Magistrate No.IV, Salem and to quash the same as illegal, incompetent by allowing the present Criminal Original Petition.



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For Petitioner : Mr.R.Jayaprakash
For Respondent : Mr.Chandrasekaran
(Party-in-Person) for
Ms. Kanagarathinam
(Party in person)

ORDER

This Criminal Original Petition has been filed seeking to quash the private complaint initiated in C.C. No. 189 of 2018 on the file of Judicial Magistrate No.IV, Salem.

2. Heard both sides.

3. The 1st petitioner is arrayed as 1st accused and based on a petition filed by respondent/complainant before the Judicial Magistrate No.IV, Salem in C.M.P.No. 3331 of 2017 filed under Sec.156(3) of Cr.P.C., the F.I.R. was registered by the Annadanapatty Police Station in Crime No.661 of 2017 for the offence under Sec.420, 468 and 471 of I.P.C. against four accused. Aggrieved over that, the petitioner/1st accused had approached this court. In fact, the respondent/complainant filed a private complaint stating that while auctioning the property for recovery



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of amount by the State Bank of India, there was some malpractice happened, thereby by colluding with bank officials, this petitioner Arumuganathan auctioned the property for lesser value. They have received the purchase amount by way of demand draft and when the same was deposited in the bank, the demand draft issued by the bank totally differs from the alleged demand draft through which the petitioner deposited the sale consideration. Accordingly, the police conducted investigation and on enquiry with the State Bank of India, they have found that while typing the demand draft, number of demand draft was wrongly mentioned. But the amount was deposited with correct demand draft no. as 236574 and to that effect, the bank officials gave their statement and the same was recorded. Therefore, the police had closed the case as mistake of fact. Aggrieved over the same, the respondent filed a protest petition before the Judicial Magistrate No.IV, Salem and the same was rejected

4. The learned counsel appearing for petitioner would submit that he is a successful auction purchaser of the property for a total sum of Rs.13,10,501/- on 08.05.2007 and by depositing highest bid amount, the



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petitioner also obtained the sale certificate. Before auctioning the property, the purchaser had obtained demand drafts for the bid amount from the banks as detailed hereunder :-

Draft drawn on	Draft No.	Dated	Amount of draft (Rs.)	Received on
Tamil Nadu Mercantile Bank Ltd., Salem	236156	02.05.2007	1,00,000.00	03.05.2007
Indian Bank, Salem	331025	02.05.2007	1,00,000.00	03.05.2007
Indian Bank, Salem	331026	02.05.2007	1,00,000.00	03.05.2007
UCO Bank, Salem	255469	02.05.2007	1,00,000.00	03.05.2007
Tamil Nadu Mercantile Bank Ltd., Salem	465795	08.05.2007	9,10,501.00	09.05.2007

The demand drafts were already deposited by this petitioner and the bid amount of Rs.4,00,000/- was adjusted by the State Bank of India and for the remaining amount of Rs.9,10,501/-, the petitioner produced the demand draft obtained from the Tamil Nadu Mercantile bank, but while mentioning number of demand draft issued by the said Bank, it was wrongly mentioned as 465795 in the sale certificate, however, the correct number is 236574. Therefore, the respondent/complainant lodged a complaint as if there was a collusion among bank officials in order to



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drag on the property. However, the Manager of State Bank of India on Ramasamy was examined and he has stated that auction purchase amount was correctly deposited, but the number of demand draft issued by Tamil Nadu Mercantile Bank was erroneously mentioned as 465795, however the petitioner deposited the amount of Rs.9,10,501/- with the demand draft bearing No. 236574, which is a correct one. Therefore, he prayed to quash the proceedings initiated against him.

5. Records perused. On seeing entire facts, it reveals that while auctioning the property, highest bid amount was deposited by the petitioner and accordingly, the sale was concluded and the sale certificate was also issued. Though there was an error in mentioning the number of demand draft, as per the bank records, it would clearly reveal that auction purchaser has rightly deposited the amount. Hence, I do not find any ingredients to attract the provisions initiated against the petitioner as if he has committed the offence and cheated the respondent/complainant. In fact, the respondent/complainant had borrowed the loan, but he failed to repay the amount and hence, the bank initiated auction proceedings. When this court enquired with the respondent/complainant, who



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appeared in person before this court, he also admitted that he borrowed the loan, but he has not produced any document to show that he discharged the loan. So, all the records would clearly shows that they have properly followed the proceedings. If at all, any fraud in issuance of sale certificate, he has to approach a civil forum. Furthermore, the learned counsel for petitioner relied on the ratio laid down in the authority reported in **2010 (4) CTC 324** in the case of ***Subhiksha Trading Services Ltd., rep. by its Company Secretary vs. The Commissioner of Police, Suburban Commissionerate, Chennai and others***, wherein this Court held as follows :-

*“Constitution of India, Art.226 – Writ of Mandamus – Interference of Revenue official and police in pure and simple civil disputes – Permissibility – Legality – Landlord attempted to evict tenant from his premises with connivance and assistance of police and revenue officials – Landlord already instituted a eviction proceedings against tenant – Held, Police and Revenue officials cannot interfere in Civil dispute between private individual – Civil disputes are to be adjudicate only before competent civil court of law – Law laid down in **Indian Oil Corporation vs. M/s.NEPC***



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***India Ltd., 2006 (4) CTC 60 applied and followed –
Tendency of police and revenue officials involving in Civil
dispute is deprecated.”***

The aforesaid authority is squarely applicable to the facts of the present case. Therefore, this Court is inclined to quash the complaint, since there is no ingredient to attract the offence initiated against the petitioners. Accordingly, this Criminal Original Petition is allowed and the proceedings initiated in the complaint in C.C.No.189 of 2018 against the petitioner is quashed. Consequently, connected Criminal Miscellaneous Petitions are closed.

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