



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :25.06.2024

CORAM

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

CRL.OP.No.11253 of 2024

and

CRL.MP.No.7617 of 2024

Suresh Paul

... Petitioner

Vs.

1. State Rep by
The Inspector of Police
Chennai CCB-I Police Station,
Chennai -107.

2.Balaji

... Respondents

Prayer: Criminal Original Petition is filed under Section 482 of Criminal Procedure Code, to call for the records pertaining to the FIR in Cr.No.53 of 2024 on the file of the 1st respondent police and quash the same.

For Petitioner : Mr.M.Vijayan
for Mr.K.Kulandai Velu

For Respondents : Mr.S.Udayakumar for R1
Government Advocate (Crl.Side)
Mr.S.Senthil for R2



ORDER

WEB COPY This petition is filed to quash the criminal complaint registered in Cr.No.53 of 2024 on 16.03.2024 for offence under Sections 406 and 420 of IPC.

2. The sum and substance of the compliant is that the petitioner herein who purchased the prime property in the year 2017 has entered into a sale agreement in the year 2019 with the defacto complainant and others and has received around Rs.3,10,00,000/- after fixing the total sale consideration as Rs.6,60,00,000/- Thereafter, it is alleged that the parties entered into MOU on 21.04.2022, wherein, the petitioner has agreed to perform the terms of contract on or before 20.07.2022 or will repay the money received with advance with interest.

3. Contrary to the said understanding, it is stated that on 27.10.2023 the petitioner has sold the property to one Ibrahim stealthily. Thus, he has committed cheating and breach of trust. Contending that the complaint on the face of it clearly indicates that the civil dispute regarding offer and acceptance of immovable property, the compliant is bound to be quashed.



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4. Further, learned counsel appearing for the petitioner would also states that the MOU which is referred in the complaint is the fabricated document and therefore, it cannot be relied upon for any purpose.

5. The learned counsel appearing for the defacto complainant intervened and furnished certain particulars claiming that the money was received by the petitioner herein with deceptive intention and he has executed the MOU just to delay the process taking action against him and in the mean while, he has encumbered the property by selling it to one Ibrahim.

6. Learned counsel appearing for the petitioner relying upon the judgment of the Supreme Court in the case of ***Kunti and Another Vs. State of Uttar Pradesh and another*** reported in ***(2023) 6 SCC 109*** would state that facts and circumstances of the case squarely applies to the case in hand.

7. This court, without going through the judgment cited above and the facts in hand for consideration, finds that the MOU alleged to have



executed by the petitioner herein on 21.04.2022 is a bone of contention which has to be investigated whether this MOU was executed with an intention of deceive the complainant and others or this MOU was fabricated by the complainant themselves so as to make the case for investigation by giving criminal colour. Therefore, for that purpose, the petition for quash is not sustainable and hence dismissed.

8. The Investigating Officer shall subject the MOU for forensic test and find out whether it is genuinely executed by the petitioner herein. If so, whether it was executed with an intention to deceive the complainant and thereafter proceed. If, in any case, MOU is found to be fabricated document, then action may be taken against the complainant for fabricating evidence and documents for the purpose of prosecuting the petitioner herein. Consequently, connected miscellaneous petition is closed.

25.06.2024

Index: Yes/No
Speaking/Non-speaking order
Neutral Citation: yes/No

gv



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To

1. The Inspector of Police
Chennai CCB-I Police Station,
Chennai -107.
2. The Public Prosecutor,
High Court of Madras,
Chennai.

Dr.G.JAYACHANDRAN,J.



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gv

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