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Crl.O.P.No.17079 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.03.2024

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THE HONOURABLE MRS.JUSTICE T.V.THAMILSELVI

Crl.O.P.No.17079 of 2022

and

Crl.M.P.No.10305 of 2022

Lenin

... Petitioner

Vs.

1.State Rep. by

The Inspector of Police,
CCB-I, Police Station,
Chennai District.

2.R.S.Kirubanandan

... Respondents

Prayer: Criminal Original Petition filed under Section 482 of Cr.P.C., praying to call for the records in C.C.No.96 of 2022 on the file of the Metropolitan Magistrate Court for Trial of Land Grabbing cases No.I, Egmore and to quash the same.

For Petitioner	: Mr.S.Suresh
For R1	: Mr.S.Vinoth Kumar
	Government Advocate (Crl.Side)
For R2	: Service Awaited



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ORDER

This petition has been filed to quash the C.C.No.96 of 2022 on the file of the Metropolitan Magistrate Court for Trial of Land Grabbing cases No.I, Egmore, in which cognizance was taken for the alleged offence punishable under Sections 419, 420, 465, 467, 468, 34,109 & 201 of IPC, against the petitioner.

2. The case of the prosecution is that, in the year of 1949, one Raja S/o.Perumal had purchased a vacant land situated in old S.No.37/1 B, New Survey No.37/ B 2A, measuring about 4464 sq.ft at Jayashankar layout, Palavakkam Village, Sholinaganallur Taluk, Kancheepuram District vide document No.557/1949. After his demise his legal heirs by name Radha Krishnan and Mani inherited the property. While being so on 06.02.1990 Said Radha Krishnan and Mani gave Power of attorney in favour of one Jaya Shankar while document No.79/1990. In pursuance of that the said D.Jaya Shankar sold the said property to one R.S.Kirubanandhan on behalf of his principles on 15.07.1993 vide document No. 2617/1993 registered at SRO, Adayar. From that day he is in possession and enjoyment over the property.



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At this juncture A-2 impersonated himself to be Kirubananthan stating that original documents are missing preferred a complaint before the H-1, Washermenpet Police Station and obtained a missing certificate. With the aid of the same A-2 executed a settlement deed in favour of A1 vide document No.3603 of 2020 dated 31.07.2020 at SRO, Neelankarai. In the above said document A3 and A4 signed as a witness. In furtherance of the same on 17.08.2020 A1 executed a Power of Attorney in favour of A5 vide document No.3654 of 2020 registered at SRO, Neelankarai. In the above said power of attorney document A6 and the petitioner A7 signed as a witnesses. On verification it is alleged that the defacto complainant gained knowledge over the above illegal act of the accuse, aggrieved over the same he lodged the complainant. Hence, the case.

3. The learned counsel for the petitioner submitted that the petitioner is an innocent person and he is no way connected with the alleged offence made by the prosecution. He further submitted that in the charge sheet it could be seen A2 impersonated himself to be Kirubananthan stating that original documents are missing preferred a complaint before the H1- Washermenpet Police Station and obtained a missing certificate. With the aid



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of same A2 executed a settlement deed in favour of A1 vide document No.3603 of 2020 dated 31.07.2020, SRO, Neelankarai. In the alleged document A3 and A4 were signed as a witnesses. At this juncture when the petitioner was in search of purchasing a land for constructing his house. A1 & A2 contacted the petitioner through land mediator. They persuaded the petitioner that their land is situated in a residential area and it also have good water resources. The petitioner went and verified the physical features of the land and after verifying the genuineness of documents he accepted for purchasing the said land. It is also an admitted fact through the charge sheet itself it could be seen the petitioner paid fourteen lakhs and then only obtained Power of Attorney from A1. After verifying the entire records on 17.08.2020 A1 executed a Power of Attorney in favour of A5 vide Document No.3654 of 2020 registered at SRO, Neelankarai. After obtaining power the petitioner placed a board displaying the name and contact number of the petitioner in the site. Further during the time of executing the Power of Attorney all relevant documents relating to the property such as missing certificate settlement deed etc are all made as a part and parcel of the Power of attorney and then only it was executed in favour of the petitioner herein. All the above facts as well as the very admittance of unregistered agreement



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for sale by A1 to the petitioner, payment of fourteen lakhs by itself shows the petitioner herein is the bonafide purchaser. He further submitted that there is no iota of evidence found against the petitioner in the charge sheet that he acted in furtherance of common intention with the co-accused or he fabricated any documents. It is also pertinent to note as soon as the petitioner received a summon from DR office he sent a letter to the said Ravi Kumar to cancel the Power of Attorney which was rejected by him. The petitioner appeared in person in DR enquiry and assisted for the same by A1 and A2 evaded from the same. Under such circumstances for the sole reason that being an Advocate the implication of the petitioner in this case is highly illegal and perverse in nature. Hence he prays to quash the proceedings against the petitioner.

4. The learned Government Advocate (Crl.Side) submitted that District Register conducted enquiry in respect of fabrication of documents. Accordingly the Power of Attorney along with other settlement deed have also been cancelled. As on date there is no Encumbrance and the defacto complainant became the original owner, to that effect he relied the 01.10.2021 order passed by the District Register.



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5. Considering the submission made by both side counsels and also a fact that the petitioner is not only obtained Power of Attorney but also an Advocate by profession assisted other accused to get missing certificate by giving false information at Neelankarai Police Station. The document was cancelled at request of the defacto complainant, but till there was a allegation against the petitioner actively participated for impersonation of the document, and it needs detailed investigation, therefore this Court declines to quash the proceeding in C.C.No.96 of 2022 on the file of the Metropolitan Magistrate Court for Trial of Land Grabbing cases No.I, Egmore. The petitioner is entitled to take all his defence before the trial Court in the manner known to law.

6. Accordingly, this Criminal Original Petition is dismissed. Consequently, connected miscellaneous petition is closed.

11.03.2024

Index: Yes/ No

Neutral Citation: Yes/No

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To

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



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T.V.THAMILSELVI, J.

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