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Crl.RC.No.1222 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.07.2024

CORAM:

THE HON'BLE MR.JUSTICE **M.DHANDAPANI**

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U.Parthan

...Petitioner

Vs.

1. M/s. Kaaviya Constructions and Developers Private Limited,
Rep. by its Managing Director Mr.S.Premkumar,
No.3, Agathiyar Block,
MGR Salai, Nehru Nagar,
Saligramam, Chennai – 600 093.
2. S.Premkumar
3. Sri Lakshmi Homes Private Ltd.,
Rep. by its Director K.N.Sekar,
No.25/16, Anna Street, Kallikuppam,
Ambathur, Chennai – 600 053.
4. K.N.Sekar
5. Lakshmi

...Respondents

Criminal Revision case filed under Section 438 r/w 442 of the Bharatiya Nagarik Suraksha Sanhita to set aside the order dated 27.03.2024 passed in Crl.MP.No.52797 of 2023 by the Metropolitan Magistrate for Exclusive Trial of CCB (Relating to cheating cases in Chennai) and CBCID Metro Cases.



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For Petitioner : Mr.P.Sesubalan Raja

ORDER

This Criminal revision case has been filed seeking quashment of the order dated 27.03.2024 passed in Crl.MP.No.52797 of 2023 by the Metropolitan Magistrate for Exclusive Trial of CCB (Relating to cheating cases in Chennai) and CBCID Metro Cases.

2. The case of the petitioner is that, the petitioner's father namely Late.P.S.Ulagarakshagan with an intent to purchase certain properties in Ayapakkam had paid a sum of Rs.5,00,45,000/- to the 1st respondent and he also paid a sum of Rs.5,29,65,000/- through the 3rd respondent as the 4th respondent had negotiated with the 1st respondent on behalf of the petitioner's father regarding the above dealing and the total amount received by the 1st respondent from the petitioner's late father is Rs.10,30,10,000/-. However, no property was transferred in the name of the petitioner's father. Thereafter, upon further verification, the petitioner came to know that taking advantage of the ill health of the petitioner's father prior to his death,



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the 2nd respondent entered into some secret arrangement with the 4th and 5th respondents and executed a registered Irrevocable General Power of Attorney dated 08.03.2017 regarding the Ayapakkam properties in favour of the 5th respondent. Thereby, the petitioner sent a legal notice dated 10.03.2023 to the 2nd respondent and despite receiving the same on 14.03.2023, the 2nd respondent neither sent a reply nor repaid the above said amount. Therefore, the petitioner filed a complaint dated 19.04.2023 before the Commissioner of Police, Chennai, however, the same was closed without proper investigation. Hence, left with no other alternative, the petitioner filed a complaint under Section 200 of Cr.P.C. in Crl.MP.No.52797 of 2023 for the offence under Sections 107 and 404 of IPC. However, the trial court, vide impugned order dated 27.03.2024 dismissed the said complaint. Challenging the same, the petitioner has come up with this Criminal revision.

3. Heard learned counsel for the petitioner and perused the material documents available on record.



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4. Since no adverse order is being passed against the respondents, notice to the respondents is dispensed with.

5. Though very many grounds have been raised by the learned counsel for the petitioner against the order impugned, when this Court expressed its opinion that, the issue involved in the present case is purely civil in nature and the same has to be adjudicated before the civil forum, the learned counsel for the petitioner restricted his prayer and sought permission of this Court to file appropriate suit before the Competent Civil Court. Learned counsel for the petitioner further prayed that the period during which the matter was agitated before the wrong forum may be excluded for the purpose of computation of limitation.

6. In view of the aforesaid stand taken by the learned counsel for the petitioner, this Court, without expressing any opinion on the merits of the case and without interfering with the order under challenge, grants liberty to the petitioner to file appropriate suit before the Jurisdictional Civil Court. If such suit is filed, the jurisdictional Civil court shall consider the same and



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pass orders, after affording sufficient opportunity to the parties. Further, the period of pendency of the petition filed by the petitioner under Section 200 of Cr.P.C. before the wrong forum shall stand excluded for the purpose of computation of limitation, if any.

7. For the reasons aforestated, this Criminal Revision case stands dismissed.

25.07.2024

skt

NCC : Yes/No
Index : Yes/No
Speaking order : Yes/No

To

The Metropolitan Magistrate for Exclusive Trial of CCB
(Relating to cheating cases in Chennai) and CBCID Metro Cases.



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M.DHANDAPANI, J.

skt

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