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Crl.O.P.No.21000 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.02.2024

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THE HONOURABLE MRS.JUSTICE T.V.THAMILSELVI

Crl.O.P.No.21000 of 2022

and

Crl.M.P.Nos.13704 & 13705 of 2022

V.Giridharan

... Petitioner

Vs.

1.The State represented by
Sub-Inspector of Police,
Central Crime Branch, EDF-I, Team -II,
Vepery, Chennai-600 007.
(Crime No.29 of 2019)

2.S.Vaidehi

... Respondents

Prayer: Criminal Original Petition filed under Section 482 of Cr.P.C.,
praying to call for the records culminating in the impugned C.C.No.858 of
2022, pending on the file of the CCB & CBCID Special Metropolitan
Magistrat, Egmore, Chennai and to quash the same.

For Petitioner	: Mr.A.Arun
For R1	: Mr.S.Vinoth Kumar
	Government Advocate (Crl.Side)
For R2	: Notice served



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ORDER

The petitioner has filed this petition to quash C.C.No.858 of 2022 dated 19.07.2017 pending on the file of the CCB & CBCID Special Metropolitan Magistrate, Egmore, Chennai, for the offence punishable under Sections 465, 468, 471, 420 r/w Sections 34 and 109 of IPC.

2. The petitioner herein is the Sub-Registrar, against whom the 2nd respondent / defacto complainant had given a complaint stating that the petitioner along with other accused colluded and fabricated the document, by way of impersonation and she was forced to purchase the property by obtaining loan from the Indian Overseas Bank for a sum of Rs.58 lakhs. Thereafter, she came to know that the property belonged to the Arulmigu Parthasarathy Temple and not belonged to the vendors / A1 & A2, who are the mother and the son. Based on the complaint lodged by the defacto complainant FIR was registered in Crime No.29 of 2019 against 8 accused persons. After investigation final report was filed, wherein the petitioner is ranked as A6 and he was charged under Section 109 of IPC, stating that without proper verification he has registered the sale deed and also not



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properly verified the documents in S.No.2470 / 1, which belonged to the Parthasarathy Temple, but the same was manipulated in S.No.2470/5 by A1 and A2 with other accused and without such verification he registered the document, thereby he has also colluded with other accused to grab the property of the Temple. Accordingly the petitioner was charged under Section 109 of IPC along with other accused for the fabrication of documents.

3. The learned counsel for the petitioner submitted that there was a partition deed in the year 1960 between one Vijayaragavadass who was stated to be the tenant under the Parthasarathy Temple in S.No.2470/1 but he manipulated the S.No.2470 / 5 thereby alleged partition deed was registered. Thereafter, in the year 1982, a release deed was executed by A1's husband in favour of one Parthasarathy by manipulating same S.No.2470/1. Consequently, on 16.07.2003 the said Parthasarathy executed a settlement deed in favour of his wife by giving life interest and thereafter to her son Rajendran. Subsequently, in the year 2008 the said Premavathy and Rajendran sold the property to the defacto complainant in the presence of the witness Durga for a valid consideration. Based on that, the defacto



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complainant obtained a bank loan. Subsequently, on verification they came to know that the said property in S.No.2470/1 originally belongs to the Parthasarathy Temple, but the same was manipulated as S.No.2470/5 and without proper verification the Registrar / petitioner herein who registered the sale deed as such is also liable to be prosecuted under Section 109 of IPC.

4. From the list submitted by the temple authorities from the year 1960 onwards, the property in Survey No.2470 / 5 did stand in their list as a temple property. But the present sale deed executed by the petitioner was only in the year 2018. Admittedly, all these years the said property stands in the name of the vendors from the year 1960. Furthermore, there is one more allegation that Prema has no right to convey the property to a life interest holder but without verifying the same, the sale deed was executed and the same has also not been properly verified by the Sub-Registrar / petitioner herein. Admittedly, if at all the life interest holder sells the property, it is subject to adjudication before the Civil Court but the said property was sold not only by Prema but also her son who is very well aware of the life interest rights given to his mother Prema. So the right person to object such



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sale deed given to A2 / Son of Prema, but as on date no such objection was forthcoming from him.

5. The learned counsel for the petitioner pointed out that on 12.11.2014 a list was given by the HRNC Commissioner to the Registrar Office, Mylapore, wherein various survey numbers were mentioned as the Survey numbers that are belonged to the Parthasarathy Temple. As rightly pointed out by the petitioner's counsel the S.No.2470/1 belongs to the temple, but there is no mentioning of S.No.2470/5 in the temple list. Therefore, the verification of the list also clearly denotes that S.No.2470/5 not belonged to the Temple.

6. By way of reply, the learned Government Advocate (Crl.Side) submitted that as per the saction reply given to the proceedings initiated by the IG Registration, there is no mentioning that the petitioner has any right to sell the property, but the former Registrar violates the same without verifying the document property. As discussed above, the S.No.2470/5 was not mentioned as a temple property in the letter issued by the HRNC authority to the Registrar.



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7. However, the revenue records reveals that the said S.No.2470/5 belongs to Corporation lane. Admittedly the vendors who sold the property has no title, but the said survey number 2470/5 was also not there in the list provided by the temple authorities from the year 1960 to the Registering Authority. But, the petitioner registered the present document in the year 2018. The defacto complainant also approached the Civil Court by filing a suit in O.S.No.6377/2019, where the petitioner is also one of the defendants. So the Civil remedy is available to the defacto complainant also set in motion by her.

8. On seeing the entire facts, this Court finds that for the past 24 years the petitioner is in service without any remarks and the same was rightly admitted by the prosecutor. On a perusal of the list submitted by the Temple authority, the said S.No.2470/5 was also not taken place in the list. Hence by relying on the earlier document in the year 1960 onwards there is no basic material evidence that he has registered the document with a malafide intention. All the records speak that S.No.2470/5 belongs to the Corporation lane. However, the fraud committed by other petitioners is sustainable. But



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this petitioner has registered the document with available records.

Therefore, this Court is inclined to quash the proceedings against this petitioner alone.

9. Accordingly, this Criminal Original Petition is Allowed.

Consequently, connected miscellaneous petition is closed.

15.02.2024

Index: Yes/ No

Neutral Citation: Yes/No

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1. The Sub-Inspector of Police,
Central Crime Branch, EDF-I, Team -II,
Vepery, Chennai-600 007.
(Crime No.29 of 2019)

2.The Public Prosecutor,
High Court of Madras.



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T.V.THAMILSELVI, J.

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