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Crl.M.P. No.12731 of 2024
in Crl.O.P. No. 15812 of 2024

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Crl.O.P.No.15812 of 2022

T.V.THAMILSELVI, J.

The petitioner is a third party filed this petition praying to modify the condition imposed by this Court while granting bail to the 1st respondent Vijayakumar in Crl.O.P.No. 15812 of 2024.

2. The learned counsel for petitioner would submit that as per the direction given by this court, the 1st respondent gave undertaking before the trial court as if he would not influence any encumbrance over the entire extent of 41 acres covered in the sale deed dated 31.12.2021 said to be stand in his name vide document No. 1355/2021. He would further submit that he purchased 1/5th share of land out of 41 acres in Old Survey No.521, New Survey No.521/3 from one M.Loganathan and the legal heirs of deceased Rajagopal through a sale deed dated 28.12.2021. As on date, he is entitled for 1/5th share in the undivided share of property. He had also filed a suit in O.S.No. 101 of 2022 praying for a declaration to declare him as absolute owner of 1/5th share of the property. Pending suit, similarly,



Crl.M.P. No.12731 of 2024
in Crl.O.P. No. 15812 of 2024

WEB COPY

another co-purchaser viz., V.Vasanthakumar also filed a suit in O.S.No.102 of 2022 praying for a declaration to declare the property purchased by him in respect of 41 acres and he is in possession of land an extent of 41 acres. While both the suits are pending before the trial court, the accused 'B' party have influenced the Revenue Divisional Officer to initiate Sec.107 proceedings and accordingly, the proceedings was initiated. But, the Revenue Divisional Officer has not received any evidence from any of the parties and he orally informed that since civil suits are pending, he was not inclined to proceed further. The accused Vijayakumar, who is 'B' party before the R.D.O. proceedings said to have claimed that he purchased entire extent of 41 acres of property from one Radhakrishnan, who is his sister's husband and entered into a joint memorandum of compromise with this petitioner and another purchaser Vasanthakumar on 23.09.2022. As per the joint memorandum of compromise, Vijayakumar, representing as Managing Director of M/s.Safvold Switchgear (P) Ltd. categorically admitted that this petitioner is entitled for 1/5th share out of 41 acres i.e. 8 acres of the property through a sale deed dated 28.12.2021. Accordingly, the joint memorandum of compromise was recorded in W.P.No. 3441 and 3445 of



Crl.M.P. No.12731 of 2024
in Crl.O.P. No. 15812 of 2024

2022 on 26.09.2022. Therefore, the petitioner now contended that out of 41 acres in Survey No.521, as per the joint memorandum of compromise, the accused Vijayakumar admits that the petitioner is entitled for 1/5th share equivalent to 8 acres as co-purchaser. But, suppressing all those facts, he filed an affidavit before this court as if for the entire extent of 41 acres, he is the absolute owner of the property ignoring the joint memorandum of compromise. Hence, he prayed to modify the condition imposed by this court to release 1/5th share in the entire extent of 41 acres in Old Survey No.521, New Survey No.521/3.

3. Notice issued. Heard and considered rival submissions of learned counsel for petitioner, learned counsel for 1st respondent and learned Government Advocate (Crl. Side) and perused the materials available on record.

4. The learned counsel for 1st respondent would submit that the alleged compromise was not acted upon, thereby he is owner of the property of 41 cents. Hence, he entitled to file undertaking affidavit before this court.



Crl.M.P. No.12731 of 2024
in Crl.O.P. No. 15812 of 2024

WEB COPY

5. Considering both side submissions and on perusal of records, it would reveals that there was a civil suit filed by this petitioner against Vijayakumar praying to declare his right over 8 acres of land, out of 41 acres of land in Survey No.521 as he purchased 1/5th share for a valid consideration through a sale deed dated 31.12.2021. The said suit was filed in the year of 2022. Thereafter, a joint memorandum of compromise was entered between this petitioner and 1st respondent/accused Vijayakumar and co-purchaser on 23.09.2022. The copy of the document was also produced, wherein Vijayakumar has signed representing M/s. Safvold Switchgear Pvt. Ltd. as Managing Director along with other persons, which is the subject matter of the property in that compromise. So also, on perusal of schedule of property, it would reveals that the property in Survey No.521 with total extent of 41 acres. As per the joint memorandum of compromise, out of the said 41 acres of land, the petitioner Venkatapathy is entitled for 1/5th share. Therefore, as per the joint memorandum of compromise, the 1st respondent/accused Vijayakumar is not absolute owner of entire extent of 41 acres. But, strangely, on perusal of affidavit filed by the 1st



Crl.M.P. No.12731 of 2024
in Crl.O.P. No. 15812 of 2024

WEB COPY

respondent/accused before this court while granting bail, there is no mentioning about the alleged compromise between himself and the petitioner Venkatapathy along with others. According to the 1st respondent/accused, the learned counsel would submit that the said joint memorandum of compromise was not acted upon. If really, it was not acted upon, he ought to have mentioned the same before this court, but there is no proof that the said joint memorandum of compromise was not acted upon nor there is no mentioning about the fact that the 1st respondent/accused entered into a joint compromise memo while obtaining bail. Therefore, the joint compromise memo dated 23.09.2022 is in force. It is pertinent to mention here that the said joint compromise memo was recorded in W.P.Nos. 3441 and 3445 of 2022 and the same is also not disputed by the 1st respondent/accused counsel.

6. So, on considering all those facts, it would clearly reveals that the 1st respondent/accused obtained bail before this court as if he is the owner of entire extent of 41 acres of land and also gave undertaking affidavit. So, at any cost, this court came to know that there is a fraud



Crl.M.P. No.12731 of 2024
in Crl.O.P. No. 15812 of 2024

played before this court. Hence, this Court is inclined to cancel the bail granted in favour of 1st respondent/accused Vijayakumar in Crl.O.P.No.15812 of 2024 and the undertaking affidavit filed by the 1st respondent/accused is also cancelled. Accordingly, this Criminal Miscellaneous Petition is ordered. Consequently, the main Criminal Original Petition in Crl.O.P.No.15812 of 2024 is dismissed and the 2nd respondent police is directed to secure the accused.

28.10.2024

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Crl.M.P. No. 12731 of 2024
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