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Crl.R.C. No. 1680 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.12.2024

CORAM

THE HONOURABLE MR.JUSTICE SUNDER MOHAN

CRIMINAL REVISION CASE No. 1680 of 2024

&

Crl.M.P. No. 13863 of 2024

Lakshmi

..Petitioner

Vs.

1. The State represented by its
Inspector of Police,
Team -IV, EDF-II,
Central Crime Branch,
Vepery,
Chennai – 07.
(Crime No. 37 of 2020)

2. R.K. Ganesan
(R2 impleaded as per order of Court dated 14.10.2024
in Crl.M.P. No. 13950 of 2024 in Crl.R.C. No. 1680
of 2024)

..Respondents

Prayer: Criminal Revision Petition as against the order dated
10.10.2023 passed in Crl.M.P. No. 18206 of 2022 passed by the
Metropolitan Magistrate for CCB and CBCID cases, Egmore, Chennai.



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For Petitioner :: Mr.K. Srinivasan
Senior Counsel for
Mr.S. Suresh

For Respondents :: Mr.S. Udayakumar
Govt. Advocate (Crl.Side)
for R1
Mr.S.M. Muralidharan for R2

O R D E R

The criminal revision case challenges the dismissal of the petitioner's application in Crl.M.P. No. 18206 of 2022 by order dated 10.10.2023 seeking discharge.

2. The petitioner along with her husband and two others are facing trial for the offences under Sections 465, 468, 471, 420, 109, 506(i) r/w 34 IPC.

3. The case of the prosecution is that the 2nd respondent/de facto complainant, who hails from Kovilpatti, Thoothukudi District, intended to purchase a property in Chennai; that he came to know about the petitioner and other accused through one Loganathan; that A1 is the husband of the petitioner and A3 is the wife of A4; that A1 & A3 jointly owned a property consisting of two floors of building in the land measuring 1731 $\frac{3}{4}$ sq.ft at Kodambakkam; that A1 and A3 agreed to sell the Ground and the First



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Floor to the 2nd respondent for a total consideration of Rs. 3,15,00,000/-; that since the 2nd respondent owned a property called 'Nallam Farm House' worth Rs.2 crores, he agreed to sell the same to A1; that pursuant to the agreement, he had also executed a sale deed in favour of A1 in respect of 'Nallam Farm House' valued at Rs.2 crores; that hence, he paid the balance sale consideration of Rs.1,15,00,000/- to A1 & A3; that thereafter, A1 and A3 had refused to execute the sale deed in respect of the disputed property and hence, complaint came to be lodged before the respondent Police.

4. Learned counsel for the petitioner/wife of A1 submitted that even as per the charge sheet, all the allegations are only as against A1 and A3; that the petitioner, who is a house wife, had no role whatsoever in the alleged transaction; that the overtact attributed to the petitioner is that out of the cheated amount, the property of the petitioner was redeemed from a mortgage and therefore, the petitioner was involved and that such an allegation, in the absence of any material to establish the involvement of the petitioner in the offence cannot be sustained.



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5. Per contra, learned counsel for the 2nd respondent/de facto complainant submitted that the petitioner and others sought for quashing of FIR before this Court in Crl.O.P. No. 8289 of 2021; that this Court, by the order dated 22.07.2021, after elaborately considering the submissions of the petitioner, held that the question as to whether the petitioner was involved in the transaction has to be examined at a later stage and refused to quash the FIR; that the allegation would reveal that the petitioner had knowledge about the forgery and the fraud committed by A1; that at this stage, the probative value of evidence cannot be considered and that grave suspicion is sufficient to frame a charge.

6. Learned Government Advocate (Crl.Side) reiterated the submissions made by the learned counsel for 2nd respondent and sought the dismissal of the revision.

7. It is not in dispute that there is no allegation of forgery as against the petitioner. However, the question is whether the petitioner had connived with her husband and committed the alleged offences. This Court, while dismissing the quash petition filed by the petitioner had observed as follows:



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'24. It is seen that the sale agreement dated 01.03.2018 was entered between the 2nd respondent and A1 & A3. A3's share of Rangarajapuram, Kodambakkam property has been purchased by A5 in this case and a reference is made in document No.4755 of 2017, dated 13.11.2017. On the same day, A5 availed the housing loan from M/s.Tata Capital Housing Finance Limited to the tune of Rs.70,23,000/- by depositing the title deeds of Rangarajapuram, Kodambakkam property in document No. 4756 of 2019. This agreement has been signed by A1 and A3 as vendors, and A4 and Loganathan as witnesses. The power of attorney document and cancellatio of document have been signed by Loganathan and A5. The said sale deed for Nalla Farm House property have been signed by Loganathan and one Bharathiraja. The receipt for discharging the mortgage loan for the petitioner's Pallikaranai property is signed by A1 as witness. Thus all the accused had participated in the Transaction.

25. The petitioner admits that she is only a house wife and being the wife of A1, she has been falsely implicated in this case. It is her husband, who created such documents and she is not be prosecuted.



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The petitioner admits that she is a house wife having no income.

The discharge of morrgage of Palliakaranai property is not in dispute and the source for clearing mortgage is based on the 2nd respondent's property.'

8. Further, it is well-settled that at the stage of framing charges, the question is not whether the materials are sufficient to record a finding of guilt. The probative value and the sufficiency of evidence cannot be considered at this stage and even a grave suspicion is sufficient to frame a charge. Therefore, since there is grave suspicion especially in the light of the observations of this Court in the quash petition, referred above, this Court is not inclined to discharge the petitioner.

9. However, considering the fact that the petitioner is a woman, her personal appearance before the Trial Court is dispensed with except on the days when the learned Magistrate is of the view that her appearance is necessary for the progress of the trial. The petitioner shall also file an affidavit stating that she would not dispute her identity and that the counsel named in the affidavit would cross-examine the witnesses on her behalf.



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10. With the above observation, the criminal revision stands dismissed. Connected miscellaneous petition is closed.

16.12.2024

nv

To

1. The Metropolitan Magistrate for CCB and CBCID cases, Egmore, Chennai.
2. Inspector of Police, Team -IV, EDF-II, Central Crime Branch, Vepery, Chennai – 07.
3. The Public Prosecutor, High Court, Madras.



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SUNDER MOHAN,J.

nv

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