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CrI.O.P.No.730 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.09.2024

CORAM

THE HONOURABLE MR.JUSTICE P.DHANABAL

CrI.O.P.No.730 of 2022

and

CrI.M.P.Nos.277 & 279 of 2022

M.Veeralakshmi

.. Petitioner

Vs.

1.The State represented by Inspector of Police,
Anti land grabbing special cell,
Dharmapuri.

2.Velan

.. Respondents

Prayer: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure to call for the records relating to final report in C.C.No.134 of 2021 on the file of the Judicial Magistrate at Palakodu filed by the 1st respondent police herein and quash the same so far as the petitioner is concerned.

For petitioner : Mr.E.K.Kumaresan

For R1 : Ms.G.V.Kasthuri
Additional Public Prosecutor

For R2 : Mr.B.Sundarapandiyan



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ORDER

This Criminal Original Petition has been filed by the petitioner to quash C.C.No.134 of 2021 on the file of the Judicial Magistrate at Palakodu as against the petitioner.

The facts necessary to dispose of this petition can be stated as follows:

2.The 2nd respondent has given a complaint before the 1st respondent alleging that the defacto complainant and one Selvam, S/o.Kandhasamy had entered into sale agreement with one Nanjappan on 18.07.2013 in respect of property situated in SF.No.12/1C1B for an extent of 45 cents and the sale price was fixed as Rs.66,00,000/- (Rupees Sixty Six Lakhs Only) and on the date of agreement itself, Rs.65,00,000/- (Rupees Sixty Five Lakhs Only) was paid and the time for payment of balance sale consideration was fixed at two years. The said Nanjappan is the power agent of the accused 1 to 8. After the sale agreement, the said Nanjappan has not executed the sale deed and thereafter, the defacto complainant came to know that the said power of attorney was canceled



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on 01.10.2013. When the defacto complainant asked the Nanjappan to execute the sale deed or to repay the amount, he evaded from repayment of the advance amount. Thereafter, the accused 2 to 8 have executed a general power of attorney deed on 28.11.2013 in favor of A10 & A11. In that power deed, the 1st accused signed as witness. Therefore, the said Nanjappan along with other accused persons have cheated the defacto complainant. Thereafter, the said power agent sold the property to the accused 12 on 13.12.2013. When the same was questioned by the defacto complainant, the accused persons 1 to 8 threatened the defacto complainant. Therefore, the FIR has been registered in Crime No.19 of 2014 dated 13.05.2014 for the offences under Sections 147, 420, 465, 468, 471, 294(b), 506(ii) & 120-B of Indian Penal Code.

3. According to the petitioner, she is the bonafide purchaser for valuable consideration and she has not involved in any offences as alleged in the complaint. Even according to the complaint, there is no any specific overt act except that she purchased the property. In order to attract the offences under Sections 147, 420, 465, 468, 471, 294(b), 506(ii) & 120B of Indian Penal Code, no any ingredients to constitute the



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offences as against this petitioner. But the 1st respondent police have not conducted a proper investigation and mechanically filed a charge sheet against this petitioner. This petitioner did not present on the date of the alleged threats made by the other accused and the petitioner is not a signatory to the sale agreement executed in favour of the petitioner. In fact, the general power of attorney executed in favour of the 1st accused was canceled and prior to that notice was served to A1 not to act as an agent in respect of the property covered in the power deed. In spite of that, he collusively entered into agreement with the defacto complainant. Moreover, the petitioner has purchased the property for valuable consideration and she is the bonafide purchaser. Therefore, no any offences committed by the petitioner and no any specific averments as against the petitioner to constitute any offences as alleged in the FIR. Therefore, the pending CC proceedings are abuse of process of law and the nature of the dispute is purely civil in nature and therefore, the pending CC proceedings are abuse of process of law and the same has to be quashed.

4.The respondents have not filed any counter.



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5.The learned counsel for the petitioner would contended that the petitioner has purchased the property from A10 & A11 who are the power agents of A2 to A8, for good and valuable consideration and the petitioner did not present on the date of the alleged threats made by the other accused and no specific overt act has been attributed against the petitioner. Even in the FIR and the final report, there is a vague allegation as against the petitioner that this petitioner purchased the property after execution of sale agreement in favour of the defacto complainant. In order to attract the offences under Sections 147, 420, 465, 468, 471, 294(b), 506(ii) & 120-B of Indian Penal Code, there are no any ingredients to constitute the offences as against this petitioner and the allegations are only against the other accused. This petitioner is bonafide purchaser for valuable consideration and therefore, the pending charge sheet is abuse of process of law. Since there is a dispute with respect to the purchase of the property, this is purely a civil dispute and the defacto complainant has given a color to the civil dispute as criminal dispute and the 1st respondent police have not properly investigated the case and without considering the civil nature of the dispute, filed final



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report as against this petitioner. Even as per the final report, except the allegation that petitioner purchased the property, no any other allegations are leveled against the petitioner and therefore, the pending CC proceedings are liable to be quashed.

6.The learned Additional Public Prosecutor appearing for the 1st respondent would contend that based on the complaint given by the 2nd respondent, they registered a case in Crime No.19 of 2014 for the offences under Sections 147, 420, 465, 468, 471, 294(b), 506(ii) & 120-B of Indian Penal Code and thereafter they examined the witnesses and recorded statements. As per the investigation, there are *prima facie* materials available to proceed with the case as against the petitioner and therefore, they filed final report and the same was taken on file by the concerned Magistrate and the Trial Court has taken cognizance and the case is pending for further proceedings and therefore, the petitioner has to face the trial and this petition is liable to be dismissed.

7.The learned counsel for the 2nd respondent would contend that A1, who is the power agent of A2 to A9 and they executed a power deed



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dated 28.11.2013 in favour of A10 & A11 in respect of the property comprised in Survey No.12/1C1B for an extent of 45 cents in Karimangalam Village. The sale price was fixed as Rs.66,00,000/- (Rupees Sixty Six Lakhs Only) and on the date of agreement itself, a sum of Rs.65,00,000/- (Rupees Sixty Five Lakhs Only) was paid as advance to the 1st accused and the remaining has to be paid within two years. Thereafter, the 1st accused failed to execute the sale deed. When the defacto complainant asked the 1st accused to execute the sale deed, he stated that the power deed was canceled by the principals on 01.10.2013.

8. Thereafter, the said 1st accused failed to repay the amount received as an advance. In the meantime, the erstwhile power agent of the 1st accused have executed a power deed in favour of A10 & A11 dated 28.11.2013, in which A1 signed as witness. Thereafter, the said land was sold to the A12 through sale deed dated 13.12.2013 & A14 through sale deed dated 26.12.2013. When the defacto complainant questioned about the sale, the accused have threatened with dire consequences and they also cheated the amount of Rs.65,00,000/- (Rupees Sixty Five Lakhs Only). The principals who executed the power



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deed in favour of A1, despite knowing very well that the sale agreement was executed in favour of the defacto complainant purposely in order to cheat the defacto complainant, canceled the power deed and also executed a power deed in favour of A10 & A11 and in turn A10 & A11 sold the property to A12 & A14. Therefore, all the accused conspired together and cheated the defacto complainant. Therefore, he lodged the complaint before the 1st respondent police and they also registered a case and conducted an elaborate investigation and filed a final report. After being satisfied with the available materials to proceed further as against this petitioner and others, the learned Magistrate took cognizance and therefore, the petitioner has to face the trial and the veracity of the witnesses' statements cannot be decided at this stage. Therefore, the petitioner has to face the trial and it is a matter of trial to decide the case. Therefore, this petition is liable to be dismissed.

9.This Court head both sides and perused the records.

10.It is admitted fact that this case is arising out of a sale agreement dated 18.07.2013. It is admitted fact that A1 was power agent



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of A2 to A8 and have executed a power deed in favour of A1 dated 12.11.2012. Based on this power deed, A1 executed the sale agreement in favour of the defacto complainant. The receipt of advance amount of Rs.65,00,000/- (Rupees Sixty Five Lakhs Only) have also been admitted and for execution of the sale deed, based on the above said agreement, the defacto complainant also filed a case before the Civil Court for the relief of specific performance and the same is also pending. There is also an admitted fact that thereafter A3 to A9 have issued notice dated 16.07.2013 to A1, A2, A4, A5, A16, one Perumal and Periyasamy and only thereafter the sale agreement was executed by A1 in favour of the defacto complainant and one Selvam. Therefore, it is a civil dispute in respect of the execution of the sale agreement and the suit is also pending before the Civil Court. As far as this petitioner is concerned, she purchased the property from A10 & A11 who are the power agent of A2 to A8 through sale deed dated 28.11.2013.

11. According to the petitioner, she is the bonafide purchaser for valuable consideration. Though the petitioner is subsequent purchaser of the sale agreement with the defacto complainant, there is no bar to sale of



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property while pending sale agreement. Since the sale is subsequent to the agreement in favour of the defacto complainant, he has to establish his right before the Civil Court by appropriate proceedings and there is no illegality in the purchase of property by the petitioner. Therefore, the defacto complainant has to seek appropriate remedy before the Civil Court. In order to constitute the offences under Sections 147, 420, 465, 468, 471, 294(b), 506(ii) & 120-B of Indian Penal Code, no material is available as against the petitioner. Even according to the FIR and final report, this petitioner only purchased the property during pendency of the agreement. There is no ingredients to constitute offences under Sections 147, 420, 465, 468, 471, 294(b), 506(ii) & 120-B of Indian Penal Code. The petitioner was not even present on the date of the occurrence for the alleged threat made by the other accused and she is also not a signatory to the sale agreement in favour of the defacto complainant. Therefore, in this case, the Civil dispute has been given colour of criminal complaint and the pending CC proceedings as against the petitioner is clear abuse of process of law. Therefore, the pending proceedings is liable to be quashed as against this petitioner.



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12.In view of the above said discussion, this Court is of the opinion that the petitioner is entitled to the relief sought for through this Criminal Original Petition for quashing of the CC proceedings pending against him.

13.In the result, this Criminal Original Petition is allowed and C.C.No.134 of 2021 pending on the file of the Judicial Magistrate at Palakodu is quashed as against this petitioner. Consequently, the connected Miscellaneous Petitions are closed.

03.09.2024

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Index : Yes / No
Internet : Yes / No
Neutral Citation : Yes / No

To

1.The Judicial Magistrate,
Palakodu.

2.The State represented by Inspector of Police,
Anti land grabbing special cell,
Dharmapuri.



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3.The Public Prosecutor,
Madras High Court, Chennai.

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P.DHANABAL, J.

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