



Crl.R.C.Nos.1809 & 1811 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 20.12.2023

PRONOUNCED ON : 17.04.2024

CORAM

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

Crl.R.C.Nos.1809 & 1811 of 2023 and
Crl.M.P.Nos.17132 & 17146 of 2023

L.Chandru ... Petitioners in both revisions

Vs.

1.V.Sivaraj ... 1st Respondent in Crl.R.C.No.1809 of 2024

2.K.Kumar ... 1st Respondent in Crl.R.C.No.1811 of 2024

3.State Rep. by
The Inspector of Police,
CCB, Team-16,
Vepery, Chennai – 600 007. ... 2nd Respondent in both revisions

PRAYER in Crl.R.C.No.1809 of 2023: Criminal Revision Petition filed under Sections 397 r/w. 401 of Criminal Procedure Code, to set-aside the order of learned Metropolitan Magistrate, CCB & CBCID Court, Egmore, Chennai dated 03.10.2023 passed in Crl.M.P.No.33237 of 2023 in CC.No.5151 of 2023 to give direction not to return the documents to the 1st respondent.



Crl.R.C.Nos.1809 & 1811 of 2023

PRAYER in Crl.R.C.No.1811 of 2023: Criminal Revision Petition filed under Sections 397 r/w. 401 of Criminal Procedure Code, to set-aside the order of learned Metropolitan Magistrate, CCB & CBCID Court, Egmore, Chennai dated 03.10.2023 passed in Crl.M.P.No.33239 of 2023 in CC.No.5151 of 2023.

For Petitioners in both revisions : Mr.R.K.Sabapathi

For R1 in Crl.R.C.No.1809 of 2023 : Mr.G.Arun Prasad

For R1 in Crl.R.C.No.1811 of 2023 : Mr.J.Sudhakaran

For R2 in both revisions : Mr.A.Damodaran,
Additional Public Prosecutor

COMMON ORDER

Challenging the impugned common order, dated 03.10.2023 in Crl.M.P.No.33237 & 33239 of 2023 in C.C.No.5151 of 2023 passed by the learned Metropolitan Magistrate, CCB & CBCID Court, Egmore, Chennai (trial Court), both criminal revision cases are filed.

2.The petitioner is the defacto complainant and the 1st respondents in both revisions are A1 and A2 in C.C.No.5151 of 2023. Since both the criminal revision cases arise out of common impugned order, this Court disposes both revisions by way of common order.



3. Gist of the case is that the petitioner as a defacto complainant lodged a complaint against the private respondents herein and four others, on the complaint, a case in Crime No.48 of 2019 registered for offence under Sections 465, 468, 471, 489 r/w 34 of IPC on 07.02.2019. On conclusion of investigation, charge sheet filed listing thirteen witnesses and several documents and the same was taken on file in C.C.No.14 of 2021 by the learned Metropolitan Magistrate-II, Land Grabbing Cases, Chennai, thereafter the case was transferred to the file of trial Court and renumbered as C.C.No.5151 of 2023. During investigation, the private respondents who are A1 & A2 enquired and original sale deeds in document Nos.4335 of 1996, 4305 of 1996 and 4362 of 1996 seized and handed over before the trial Court at the time of filing charge sheet. The case projected against the private respondents is that the property in Paimash No.366/1, T.S.No.88, Reddy 1st Street, Ekkattuthangal, Chennai to an extent of 16,989 sq.ft originally belongs to one Govindha Reddiar son of Kandhappa Reddiyar which was inherited in the capacity of legal heir. After the demise of Govindha Reddiar, his legal heirs viz., Loganatha Reddiar, Krishna Reddiar, Balu Reddiar and Venu Reddiar were enjoying the property jointly.



Thereafter, the property devolved on the petitioner/defacto complainant who is the legal heir Loganatha Reddiar and his paternal uncles Krishna Reddiar, Balu Reddiar and Venu Reddiar enjoying the same jointly. While so, the private respondents herein and one Anandan all neighbours with an intention to grab the property, conspired together, involved in illegal activities and also attempted to encroach the petitioner's property. A complaint was lodged with the J2 Guindy Police Station, Chennai and C.S.R.No.641 of 2014 assigned on 19.04.2014. The petitioner and the private respondents called for enquiry, both the petitioner and the private respondents appeared and assured to demarcate the property with the aid of land surveyor and undertake not to interfere with each other's property. Later, the petitioner came to know forged documents created for the said property and a complaint was lodged. On completion of investigation, charge sheet filed against six persons including the private respondents herein. During the course of trial, the accused filed discharge petition in Crl.M.P.No.31 of 2022 in C.C.No.14 of 2021, dismissed by the Court below on 11.11.2022. Challenging the same, they filed criminal revision cases in Crl.R.C.Nos.259 & 260 of 2023 before this Court and this Court by order,



dated 28.06.2023 allowed the revision petitions discharging the private respondents herein from the main case. In Crl.R.C.Nos.259 & 260 of 2023, the petitioner filed impleading Petition in Crl.M.P.No.2905 & 2907 of 2023 in Crl.R.C.Nos.259 & 260 of 2023 and this Court by order, dated 27.02.2023 impleaded the petitioner as 2nd respondent in both the revision. After the discharge, the private respondents filed Crl.M.P.Nos.33237 & 33239 of 2023 in C.C.No.5151 of 2023 for return of original sale deeds document Nos.4335 of 1996, 4305 of 1996 and 4362 of 1996 which were seized from them. The trial Court, by common impugned order, dated 03.10.2023 allowed the petition returned original sale deeds to the private respondents. Challenging the same, the present revisions are filed.

4.The learned counsel for the petitioner submitted that the petition for return of documents filed under Section 459 Cr.P.C., which cannot be entertained and dismissed in *limine*. All the accused in this case having got discharged, the petition under Section 452 Cr.P.C., would alone be proper. In this case, no proper enquiry conducted. The petitioner filed Crl.M.P.Nos.42698 & 42699 of 2023 in Crl.M.P.Nos.33237 & 33239 of



2023 in C.C.No.5151 of 2023 to get intervened and assist the prosecution in opposing the return of documents. But the Court below dismissed the intervening petitions recording no representation and no orders passed on merits. Hence, the petitioner filed the present revisions before this Court. Despite filing of revisions and the same were informed to the Court below, the Court below passed the impugned common order returning the documents. In support of his submissions, the learned counsel for the petitioner relied on the decision of the Apex Court in the case of “*Nevada Properties Private Limited v. State of Maharashtra and another*” reported in *(2019) 20 Supreme Court Cases 119*” wherein it had held that the return of document would not determine the title or ownership of the property and the same to be decided only in the civil suit.

5.The learned counsel for the private respondents submitted that the private respondents falsely implicated in this case. During enquiry, the original sale deeds in document Nos.4335 of 1996, 4305 of 1996 and 4362 of 1996 seized from them. The private respondents filed discharge petition before the trial below and the same was dismissed on 11.11.2022, aggrieved



over the same, the respondents filed revision petitions in Crl.R.C.Nos.259 & 260 of 2023 and this Court by a detailed order, dated 28.06.2023 allowed the petitions discharging all the accused from the case. This Court observed that civil suit is pending in C.S.No.182 of 2019 against the petitioner herein for declaratory relief for the same subject property and in the civil suit the private respondents filed application in O.A.Nos.243 & 244 of 2019 in C.S.No.182 of 2019 seeking for injunction and restraining the petitioner herein from alienating or encumbering subject property and injunction granted on 03.06.2019. This Court found that there is no evidence on record to show that the private respondents herein affixed signature in any documents, forged or impersonated the petitioner. The learned counsel further submitted that the petitioner filed his objections and strongly opposed the revision petition filed by the private respondents claiming that he is owner of the property. This Court considered the rival submissions finding no criminal case made out, discharged all accused from the case. Against this discharge, the petitioner/defacto complainant not preferred any appeal as on date. Since the original sale deeds seized from the private respondents, they filed petition seeking return of documents. The Section



quoted might be wrong provision but the contents and prayer seeking return of property properly made. The Court below recorded the same and finding that quoting wrong provision would not deny the respondents in seeking original documents, allowed the petition ordering return of documents with the following conditions:

“(i) This Court is directed to return the documents viz., Doc.Nos.4335/1996, Dt.18.09.1996, 4305/1996, Dt.17.09.1996 & 4362/1996, Dt.19.09.1996 to the petitioners on proper identification and acknowledgment.

(ii) The petitioners are hereby directed to produce the certified copies of the said documents before this Court.

(iii) The petitioners shall produce the said documents before this Court as and when required.”

6.The learned counsel for the private respondents further submitted that the contention of the petitioner that Section 452(4) Cr.P.C., not followed, would not be proper. As per Section 452(4) Cr.P.C, the period of two months would be applicable only if it is without any condition or on condition that he executes a bond with or without sureties. In this case, the documents handed over with conditions hence, the objection of the



petitioner is not sustainable.

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7.The learned Additional Public Prosecutor appearing for the respondent Police submitted on the complaint of the petitioner, a case in Crime No.48 of 2019 registered on 07.02.2019 for offence under Sections 465, 468, 471, 489 r/w 34 of IPC against the accused. On completion of investigation, charge sheet filed before the Court below listing thirteen witnesses and documents. Thereafter, the accused filed discharge petition before the learned Metropolitan Magistrate, Special Court for Exclusive Trial of Land Grabbing Cases-2, Allikulam in Crl.M.P.No.31 of 2022 in C.C.No.14 of 2021 and on 11.11.2022, the same was dismissed. Challenging the same, the private respondents filed Crl.R.C.Nos.259 & 260 of 2023 and the same were allowed discharging the private respondents from the main case. On the strength of it, the private respondents filed a petition for return of documents which were seized from them. With the conditions, the trial Court ordered return of documents to the private respondents.



8.Considering the submissions and on perusal of materials, it is seen that the above said three documents seized from the respondents during investigation. After filing of charge sheet, they filed a discharge petition which got dismissed, thereafter, they filed revision before this Court and this Court allowed the revision discharging the respondents from the main case. Thereafter, they filed petitions for return of documents. The trial Court on considering the orders of this Court discharging the private respondents from the case, ordered return of original sale deed to them from whom it was seized, with condition. It is also seen that civil suit is pending between the respondents and the petitioner in C.S.No.182 of 2019 before this Court on the civil side.

9.In view of the same, this Court finds no reason to interfere with the impugned common order, dated 03.10.2023 in Crl.M.P.No.33237 & 33239 of 2023 in C.C.No.5151 of 2023 passed by the learned Metropolitan Magistrate, CCB & CBCID Court, Egmore, Chennai and the same is confirmed. Accordingly, both the criminal revision cases are dismissed.



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10.It is made clear that the return of documents would not entitle the respondents to clear dispute surrounding the documents. It is for the civil suit to decide the genuineness and admissibility of document on merits. The connected criminal miscellaneous petitions are closed.

17.04.2024

Index : Yes/No
Speaking Order/Non Speaking Order
Neutral Citation: Yes/No

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To

- 1.The Metropolitan Magistrate for CCB & CBCID Cases,
Egmore, Chennai.
- 2.The Inspector of Police,
CCB, Team-16,
Vepery, Chennai – 600 007.
- 3.The Public Prosecutor,
Madras High Court.



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Crl.R.C.Nos.1809 & 1811 of 2023

M.NIRMAL KUMAR, J.

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PRE-DELIVERY ORDERS IN
Crl.R.C.Nos.1809 & 1811 of 2023

17.04.2024