



Crl.O.P.(MD) No.405 of 2023

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 15.07.2024

CORAM:

THE HONOURABLE MR.JUSTICE K.RAJASEKAR

Crl.O.P.(MD) No.405 of 2023

and

Crl.M.P.(MD) No.317 of 2023

Kumaresan

... Petitioner

-VS-

1.State

through the Inspector of Police
Anti Land Grabbing Special Wing
in Crime No.41 of 2011
Virudhunagar District

2.Mahalakshmi

3.Balamuralikrishnan

4.R.Gajendramoorthy

... Respondents

[R2 to R4 are substituted as per Court
order dated 07.07.2023 in Crl.M.P.(MD)
No.9668 of 2023]

PRAYER: Petition filed under Section 482 of the Code of Criminal Procedure, 1973 to call for the records in C.C.No.11 of 2022, pending on the file of the Special Judicial Magistrate (Special Court for Land Grabbing Cases), Virudhunagar and to quash the same.



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For Petitioner : Mr.R.Rajamohan

For Respondents : Ms.M.Aasha
Government Advocate (Criminal Side) for R1
Mr.J.Jeyakumaran for R2 to R4

ORDER

This criminal original petition is filed by the petitioner / A15 seeking to quash the proceedings, initiated against him in C.C.No.11 of 2022, pending on the file of the learned Special Judicial Magistrate (Special Court for Land Grabbing Cases), Virudhunagar.

2. The case of the prosecution is that the petitioner herein is a land broker and the *de facto* complainant was in search of lands for establishing a factory. A1 to A9 claiming themselves to be the owners of lands comprised in Survey Nos.303/1, 303/2, 304/2, 307, 309 and 310/1A2 of Ondippuli Village, measuring a total extent of 18.70 Acres, approached the *de facto* complainant through A10, A14 and the petitioner to sell the same with full knowledge that a portion of the said lands is not belonged to them. The petitioner and other accused persons have attested the sale deeds. Further, they have also executed a rectification deed adding Survey No.303/1 to the alleged sale transaction. Later, it was revealed that suppressing the



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ownership of one Jeyaraj Naicker and legal heirs of Nammalvar Naicker, behind their back by impersonation, A1 to A3 sold to the lands to *de facto* complainant herein. After knowing the fact that the original owner of the lands were not a party to the sale transactions, the *de facto* complainant lodged a complaint before the respondent – Police against fifteen persons, including the petitioner herein.

3. During investigation, it was revealed that A3, by conniving with A4 to A9, had obtained a power of attorney in the name of A1 to A3 and sold the lands, which are not belonged to them. Further, these sale deeds have been attested by A11 to A15 and it was also stated that they are aware about the identity of the persons, who executed the documents and also the fact that the lands were not belonged to them. In respect of the petitioner / A15, it is alleged that he was participated in the conspiracy and also attested the documents. After investigation, the respondent – Police filed the final report against the accused persons, including the petitioner herein, for the offences under Sections 120B, 419, 420, 423, 465, 468, 471 r/w 109 I.P.C.

4. Aggrieved over the filing of final report, the petitioner / A15 has filed this criminal original petition seeking to quash the proceedings initiated



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against him, on the ground that he is a negotiator and land broker and believing that the lands were belonged to A1 to A3, he had arranged for the sale transactions and apart from that he was not aware about the title to the property and the purchaser had fully verified the documents and only thereafter, he came forward to purchase the property. Hence, the purchaser cannot claim that he has been cheated by the sellers and the negotiators.

5. Per contra, learned counsel for the *de facto* complainant would submit that the petitioner herein had participated in every transactions, including negotiation and he is also hailing from the same village and he was aware that a portion of the land was not belonged to the sellers and apart from that he had also participated in the registration of documents and he was one of the attestors and therefore, prays for dismissal of this criminal original petition.

6. Learned Government Advocate (Criminal Side), on instructions, would submit that based on the materials collected, it was revealed that the petitioner is also an attestor to the documents and also participated in fabrication of documents, and hence, she prayed for dismissal of this criminal original petition.



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7. Heard the learned counsel on either side and carefully perused the materials available on record.

8. On perusal of the materials available on record and the statement of witnesses, it is seen that the petitioner has actively participated in the negotiation. Originally, 11.45 Acres of land was belonged to Jeyaraj Naicker and 2.12 Acres of land was belonged to the legal heirs of Nammalvar Naicker and 4.73 Acres of land was belonged to A3. At the time of negotiation, it was reported to the *de facto* complainant that Jeyaraj Naicker was having 11.85 Acres instead of 11.45 Acres of land and by adding the other properties, which were belonging to the legal heirs of Nammalvar Naicker and A3, they came forward to sell 18.70 Acres of land. At the time of negotiation also, the petitioner had participated and included larger extent of land in the sale transaction, which were not belonged to the A1 to A3, for which the other accused had also actively participated in the negotiation and attested the documents. Considering the fact that the case on hand is revolving around conspiracy made between the parties, false representation and also fabrication of records, I am of the view that the allegations levelled against the petitioner cannot be rejected at the threshold and it requires recording of evidence and



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without doing so, it cannot be held that the petitioner has not involved in any of the offence. Hence, I am of the view of the the petitioner has not made out any case to quash the proceedings initiated against him.

9. Accordingly, this criminal original petition is dismissed. The concerned Trial Court is directed to dispose of C.C.No.11 of 2022 as expeditiously as possible. Consequently, connected miscellaneous petition is closed.

15.07.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes / No

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To:

- 1.The Special Judicial Magistrate,
Special Court for Land Grabbing Cases,
Virudhunagar.
- 2.The Inspector of Police,
Anti Land Grabbing Special Wing,
Virudhunagar District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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K.RAJASEKAR, J.

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