



Crl.O.P(MD)No.1321 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 11.11.2024

CORAM

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

Crl.O.P(MD)No.1321 of 2023
and Crl.MP(MD) No.1183 of 2023

Balamurugan

... Petitioner/Accused

Vs

1. The Inspector of Police,
District Crime Branch (Anti Land Grabbing Cell)
Karur District.Crime No.34 of 2022.

2. Gunasekaran

... Respondents

PRAYER: Criminal Original petition has been filed under Section 482 of Cr.P.C, to call for the records relating to FIR in Crime No.34 of 2022 dated 23.12.2022 on the file of the 1st respondent or Inspector of Police, Anti Land Grabbing Special Cell, District Crime Branch, Karur and quash the same as against the petitioner.

For Petitioner : Mr.AN.Ramanathan

For Respondents :Mr.A.Albert James (R1)
Government Advocate (Crl.Side)

Mr.R.Devaraj (R2)



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ORDER

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This Criminal Original Petition has been filed to quash the FIR in Cr.No. 574/2020 pending investigation on the file of the first respondent Police Station.

2.The second respondent gave a complaint to the first respondent police stating that he had borrowed a loan amount of Rs.33 lakhs from A1 for his urgent needs and for conducting his daughter's marriage. In lieu of the same, a sale deed was executed in favour of A1 with respect to the subject property only as a security, without any intention to transfer title in favour of A1. That apart, the petitioner had also executed cheque and signed promissory note to A1 as security.

3.The further case of the second respondent is that A1 created forged document by executing a sale deed in favour of A2 and thereafter, A2 sold the same property in favour of A3. A3 is the petitioner herein. It is under these circumstances, the complaint given by the second respondent was taken on file by the first respondent Police and registered a case in



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Cr.No. 34 of 2022 for the offences punishable under Sections 120(b), 420, 465, 468, 506(i) IPC.

4.The present quash petition has been filed by A3, who is the subsequent purchaser of the property.

5.Heard the learned counsel for the petitioner, the learned Government Advocate (Crl.Side) appearing for the first respondent and the learned counsel appearing for the second respondent.

6.The issue under consideration is as to whether on the reading of the allegations made in the FIR, any offence has been made out against the petitioner.

7.In the instant case, there is no dispute with regard to the fact that the second respondent / defacto complainant had executed a sale deed in favour of A1 on 12.06.2019. The intent behind the execution of such sale deed and whether it was executed only as a security can never be a subject



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matter of criminal investigation.

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8.Apart from that, A1 had executed a sale deed in favour of A2 on 28.01.2022. In turn, A2 had executed the registered sale deed in favour of the petitioner on 23.03.2022. Thus, the property has changed hands and as on the date, when the complaint was given by the second respondent, in the eye of law, he was not the owner of the property. The specific claim made by the defacto complainant is that the sale deed executed by him in favour of A1 itself is sham and nominal and there was no intention to pass on title in favour of A1.

9.This issue can only be agitated before the civil Court and can never form part of criminal investigation. A suit has already been filed in O.S.No.135 of 2022 by the second respondent, wherein, he has sought for declaration to declare all the sale deeds as null and void and *non-est* and not binding on the second respondent. While prosecuting the suit, a complaint came to be given and thereafter, based on the same which FIR was registered.



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10.The entire allegations made in the FIR, even if it is taken as it is, does not make out an offence of cheating or forgery. It is too far-fetched to name the petitioner as A3 in this case. He has come into the picture much later in the year 2022 and there is no way the petitioner would have known the intent of the transaction that took place between the de facto complainant and A1 in the year 2019. Therefore, the continuation of criminal proceedings against the petitioner is an abuse of process of law and it requires the interference of this Court in exercise of its jurisdiction under section 482 of Cr.P.C.

11.In the light of the above discussion, the FIR in Cr.No.34 of 2022 is hereby quashed. It is made clear that this Court did not go into the merits of the case and it is left open to the parties to agitate their grievances before the civil Court by putting forth all the grounds and the same will be considered on its own merits and in accordance with law.



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12.In the result, this Criminal Original Petition is allowed in the above terms. Consequently, connected miscellaneous petition is closed.

11.11.2024

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

To

1. The Inspector of Police,
District Crime Branch (Anti Land Grabbing Cell)
Karur District.Crime No.34 of 2022.

2.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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N.ANAND VENKATESH, J.

PNM

ORDER IN
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