



Crl.O.P.(MD) No.2054 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 09.01.2024

CORAM

THE HON'BLE MRS.JUSTICE R.HEMALATHA

Crl.O.P.(MD) No.2054 of 2021

and

Crl.M.P.(MD) No.1000 of 2021

Arumairaj

... Petitioner

Vs.

1.The Inspector of Police,
District Crime Branch,
Kanniyakumari.
(Crime No.33 of 2019)

2.Uma

... Respondents

Prayer: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, 1973, praying to call for the records in Crime No.33 of 2019 on the file of the first respondent and quash the same as against the petitioner herein.

For Petitioner : Mr.J.Pooventhera Rajan

For R1 : Mr.R.M.Anbunithi
Additional Public Prosecutor

For R2 : Mr.S.Palanivelayutham



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ORDER

This Criminal Original Petition is filed by A4 in Crime No.33 of 2019 of District Crime Branch, Kanyakumari seeking quashment of First Information Report [FIR].

2. The second respondent is the *de facto* complainant and she has a doctorate degree in Physics. She has lodged a complaint with the Inspector of Police, District Crime Branch, Kanyakumari contending that the present petitioner and others had cheated her by getting Sale Deeds executed in their favour in respect of a land situate in R.S.No.410/6-B-1A of Kottoram Town Panchayat, Agasteeswaram Taluk, Kanyakumari District, measuring 33.700 cents, based on which, an FIR in Crime No.33 of 2019 was registered by the Inspector of Police, District Crime Branch, Kanyakumari.

3. A perusal of the FIR shows that the *de facto* complainant had executed a Power of Attorney and a Cash Receipt for a sum of Rs. 25,00,000/- in favour of A2 who in turn, on the basis of the said Power of Attorney, had sold the property to A1. A1 subsequently sold a portion of



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the property in favour of the petitioner/A4 on 11.06.2018. According to the *de facto* complainant, the Power of Attorney and Cash Receipt for a sum of Rs.25,00,000/- were obtained from him by A2 under threat and coercion and therefore, same would not bind her.

4. Mr.J.Pooventhera Rajan, learned counsel for the petitioner would contend that the petitioner/A4 is only a subsequent purchaser and there are no averments against him. According to him, he has not committed any offence much less the offence punishable under Section 420 of the Indian Penal Code, 1860.

5. Per contra, Mr.S.Palanivelayutham, learned counsel for second respondent/*de facto* complainant would contend that the petitioner/A4 had purchased the property pursuant to the Power of Attorney executed by the *de facto* complainant under threat and therefore, he must also be prosecuted for the offence punishable under Section 420 of the Indian Penal Code, 1860.

6. Mr.R.M.Anbunithi, learned Additional Public Prosecutor appearing for the first respondent would contend that the investigation is



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almost completed and since there is an order of interim stay of filing final report, they are unable to file final report against all the accused before the concerned Magistrate.

7. The entire reading of the FIR shows that on 20.06.2018, when the *de facto* complainant went to her land in R.S.No.410/6-B-1A, she found that A3 to A5 were making some developments in the land and when they were confronted, they said that they had purchased the property from A1. It is seen from the records that the *de facto* complainant had already filed a Civil Suit in O.S.No.90 of 2022 before the Principal District and Sessions Court, Nagercoil which was later transferred to the Mahila Court, Nagercoil. The said suit in O.S.No.90 of 2022 was filed for a declaration that the Sale Deeds executed in favour of A1 and in favour of A3 to A5 (including the petitioner herein) are null and void and for a permanent injunction restraining them from interfering with her peaceful possession and enjoyment of the property.

8. The only averment made in the FIR is that the petitioner/A4 had informed the *de facto* complainant that he had purchased the property from A1. The *de facto* complainant has a doctorate degree in Physics and



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she has not stated as to how she was pressurised to execute the Power of Attorney in favour of A2 and issue of Cash Receipt for a sum of Rs. 25,00,000/-. The *de facto* complainant admitted of having received a sum of Rs.25,00,000/- from A2.

9. A reading of the FIR further clearly shows that the dispute between the parties is purely 'civil in nature' and since the *de facto* complainant had already filed a civil suit against the accused, the *de facto* complainant is directed to workout her remedy in the civil suit as against the petitioner/A4. Since there are no specific allegations in the FIR as against the petitioner/A4, FIR in Crime No.33 of 2019 of District Crime Branch, Kanyakumari is quashed as far as the present petitioner/A4 is concerned.

10. Accordingly, this Criminal Original Petition is allowed. Consequently, connected Miscellaneous Petition is closed.

09.01.2024

Index: Yes/ No
Neutral Citation: Yes / No
Speaking Order / Non-Speaking Order
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To
The Inspector of Police,
District Crime Branch,
Kanniyakumari.



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R.HEMALATHA, J.

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