



Crl.O.P.(MD) No.4143 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 08.02.2024

CORAM

THE HON'BLE MRS.JUSTICE R.HEMALATHA

Crl.O.P.(MD) No.4143 of 2021

and

Crl.M.P.(MD) No.2293 of 2021

Garima Chhabra

... Petitioner

Vs.

1.The State rep. by
Inspector of Police,
Koodakovil Police Station,
Koodakovil, Madurai District.
(Crime No.90/2009)

2.Raman

... Respondents

Prayer: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, 1973, to call for the records pertaining to the Charge Sheet in C.C.No.161 of 2012 on the file of the Judicial Magistrate Court, Thirumangalam and quash the same in so far as this petitioner is concerned.

For Petitioner : Mr.M.Ajmal Khan, Senior Counsel
assisted by Mr.K.Althaf Sheriff
for M/s.Ajmal Associates

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



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ORDER

Seeking to quash the final report in C.C.No.161 of 2012 on the file of the Judicial Magistrate Court, Thirumangalam, the present Criminal Original Petition is filed.

2. The petitioner Garima Chhabra is accused 3 in Crime No.90 of 2009 of Koodakovil Police Station. The case of the prosecution in a nutshell is as follows:

(a) The properties in S.No.253/1 & S.No.253/4 of Thirumal Village, Thirumangalam Taluk, Madurai District ad-measuring 6 Acres 22 Cents (4.42 Acres + 1.80 Acres) belonged to one Veerana Thevar, S/o.Irulandi Thevar. The said Veerana Thevar had three sons by names Velu Thevar, Irulappan and Maruthappan. They were enjoying the properties jointly. After their death, their legal heirs were also enjoying the properties jointly.

(b) One Mahalingam who is one of the sons of Velu Thevar is accused 4 and his wife Rakkammal is accused 1. The said Rakkammal (A1) had meneaured to get a patta in her name in respect of the above properties and executed a power of attorney in favour of one Gowtham



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(A2) who in turn had sold the properties in favour of the present petitioner (A3), a resident of Indore, Madhya Pradesh. Thereafter, another son of Velu Thevar by name Raman (the second respondent/*de facto* complainant) lodged a complaint with the Inspector of Police, Koodakovil Police Station against the petitioner (A3) and three others which came to be registered as F.I.R. in Crime No.90 of 2009, for the offences punishable under Sections 419, 420, 465, 468 r/w. 120(b) of IPC. After completing investigation, the police filed a final report before the Judicial Magistrate Court, Thirumangalam in C.C.No.161 of 2012.

(c) When the charges were framed against all the accused, the said Rakkammal (A1) and Mahalingam (A4) pleaded guilty. Accordingly, the case in C.C.No.161 of 2012 was split up into C.C.No.181 of 2014 and the said Rakkammal (A1) and Mahalingam (A4) were convicted for the offences punishable under Sections 419, 420, 465, 468 r/w. 120(b) of IPC and sentenced to undergo a simple imprisonment for a period of two weeks and to pay fine of Rs.50/- each for each offence. The period of sentence already undergone by them was set off under Section 428 of Cr.P.C. The present petitioner (A3) and Gowtham (A2) are tried in the original C.C.No.161 of 2012.



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3. Mr.M.Ajmal Khan, learned senior counsel assisted by

Mr.K.Althaf Sheriff appearing for the petitioner (A3) would contend that A4 Mahalingam's brothers filed a suit in O.S.No.215 of 2009 before the District Munsif Court, Thirumangalam seeking partition of their family properties into 8 equal shares and to allot one such share to each of them and also to set aside the sale deed executed in favour of the present petitioner (A3). He filed a copy of the decree and judgment passed by the District Munsif, Thirumangalam in O.S.No.215 of 2009 on 05.12.2017. A perusal of the decree and judgment dated 05.12.2017 shows that the present petitioner (A3) did not contest the suit, as a result of which, the sale deed executed in her favour was declared as null and void. He would further contend that the present petitioner (A3) had not filed any petition to set aside the decree and judgment passed in O.S.No.215 of 2009 and she would not do the same in future as she wants to lead a peaceful life. It is his further contention that though the present petitioner (A3) paid a sum of Rs.1,00,000/- for purchase of the properties, she has not filed any suit for recovery of the said amount and does not want to pursue the present case further. It is also his contention that the petitioner (A3) is a *bona fide* purchaser for value and also a victim in the crime committed by the other accused.



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4. Mr.R.M.Anbunithi, learned Additional Public Prosecutor appearing for the first respondent police would contend that after completing proper investigation, the police filed a final report before the Judicial Magistrate Court, Thirumangalam in C.C.No.161 of 2012 and therefore, there are no grounds to quash the final report.

5. It is seen from the records that though the properties are ancestral properties of Velu Thevar, Rakkammal (A1), the wife of Mahalingam (A4) (who is one of the sons of Velu Thevar) had somehow obtained patta in her exclusive name in respect of the above properties and executed a Power of Attorney in favour of Gowtham (A2) who in turn had sold the properties to the present petitioner (A3) for a consideration of Rs.1,00,000/-. The present petitioner (A3) subsequently came to know about the fraud committed upon her by the other accused. The present petitioner (A3) is also a victim in the crime and seems to be a *bona fide* purchaser for value as rightly pointed out by the learned senior counsel appearing for the petitioner/accused 3.

6. In any event, the partition suit filed by A4 Mahalingam's brothers in O.S.No.215 of 2009 before the District Munsif Court, Thirumangalam



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was decreed and the sale made in favour of the present petitioner (A3) was also cancelled and Mr.M.Ajmal Khan, learned senior counsel contended that the present petitioner (A3) would not file any petition to set aside the decree and judgment passed against her in O.S.No.215 of 2009 and that she would not claim any right over the properties purchased by her.

7. Recording the said submission, the final report/charge sheet filed as against the present petitioner (A3) in C.C.No.161 of 2012 on the file of the Judicial Magistrate Court, Thirumangalam is quashed.

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

08.02.2024

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

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To

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- 1.The Judicial Magistrate,
Thirumangalam,
Madurai District.
- 2.The Inspector of Police,
Koodakovil Police Station,
Koodakovil, Madurai District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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R.HEMALATHA, J.

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