



*Crl.O.P(MD)No.5301 of 2021*

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 19.08.2024

CORAM

**THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY**

CRL.OP(MD). No.5301 of 2021

and

CRL.MP(MD)No.3056 of 2024

Vijayaraj

... Petitioner

Vs

1. The Inspector of Police,  
District Crime Branch,  
Pudukottai District.

2. Mohamed Sulthan

... Respondents

**Prayer :** Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to call for records relating to the charge sheet in CC.No.18 of 2020 on the file of the learned Judicial Magistrate No.II, Pudukottai and quash the same as against the petitioner.



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For Petitioner : Mr. Subash Babu.M  
For R-1 : Mr.A.Albert James  
Government Advocate (crl. Side)

### **ORDER**

This Criminal Original Petition has been filed, seeking to quash the proceedings in C.C.No.18 of 2020 on the file of the learned Judicial Magistrate No.II, Pudukottai.

2. The petitioner herein is arrayed as A-2. On perusal of the material records of the case, it can be seen that one Pichai, claiming to be the owner of the very same property, has sold the property by way of registered sale deed in favor of the defacto complainant in the year 2009. Again claiming to be the owner of the very same property in Survey No. 250/21, he has sold the same property to the second accused by way of registered sale deed in the year 2013.

3. The contention of the learned counsel for the petitioner is that



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the petitioner is only the subsequent purchaser, who has purchased it for the value by paying Rs.5,68,000/- and since the encumbrance did not reflect the earlier sale, he being an innocent person, ought not to have been arrayed as accused in this case, rather the respondent police ought to have investigated the case properly and ought to have shown him only as a witness. He further submits that the defacto complainant has also filed a civil suit for declaration of title, which has been dismissed for default. Therefore, he prayed that the case should be quashed.

4. Per contra, the learned Government Advocate (criminal side) as well as the learned Counsel appearing for the defacto complainant would submit that only after due investigation, the charge sheet has been filed. It is their case that there is complicity for the second accused, who purchased the property.

5. Certainly the offence is made out *prima facie* as against the first accused, as this is a case of dual sale of the same property. Whether as against the second accused the case will be proved by the prosecution or not, remains to be seen as to the evidence that may be let in by the



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prosecution as to their complicity. It will be open for the second accused to establish in the trial that he is an innocent third party purchaser and did not know the fact that the property was earlier sold to the defacto complainant. Since the contention which is raised by the learned Counsel for the petitioner is factual in nature, the same can be agitated only during the trial and this Court cannot interfere with the calendar case in a quash petition filed by the second accused. With reference to the dismissal of the suit, it can be seen that the same is dismissed for default and in any event it is only a relevant fact and would not automatically entitle the petitioner to get the case quashed.

6. For all the above reasonings, leaving it open for the petitioner to agitate before the trial Court all these grounds, this Criminal Original Petition stands dismissed. Considering the fact that the petitioner herein is claiming to be the subsequent purchaser and the attendant circumstances of the case, the petitioner's presence before the trial Court alone is dispensed with, except for the necessary hearings such as questioning, recording of evidence etc. Considering the fact that the case is pending from the year 2020, the trial Court is requested to take up the



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case for expeditious disposal and dispose of the same at an early date and in any event, not later than a period of six months from the date of receipt of a copy of this order. Consequently, connected miscellaneous petition is closed.

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

**19.08.2024**

To

1. The Inspector of Police,  
Anjugramam Police Station,  
Kanyakumari District,  
Kanyakumari.

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



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**D.BHARATHA CHAKRAVARTHY,J.**

jbr

Order made in  
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