



CrI.O.P.(MD)No.11508 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Dated : 31.07.2024

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THE HON'BLE MR.JUSTICE B.PUGALENDHI

CrI.O.P.(MD)No.11508 of 2024

and

CrI.M.P.(MD)Nos.7376 and 7377 of 2024

S.Rajendran

... Petitioner

versus

1. State represented by
The Inspector of Police,
Central Crime Branch,
Madurai City.

2. V.S.Mahalingam

... Respondents

Prayer : Criminal Original Petition filed under Section 528 of Bharatiya Nagarik Shuraksha Sanhita, to call for the records pertaining to the final report in C.C.No.298 of 2024 pending on the file of the Judicial Magistrate No.I, Madurai District and quash the same as illegal.

For Petitioner : Mr.C.M.Arumugam

For R1 : Mr.M.Sakthi Kumar
Government Advocate (CrI. Side)



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For R2 : Mr.AN.Ramanathan

ORDER

The petitioner is the 1st accused in C.C.No.298 of 2024 on the file of the learned Judicial Magistrate No.I, Madurai. He has filed this petition to quash the proceedings in C.C.No.298 of 2024 pending against him.

2. A case in Crime No. 41 of 2020 was registered by the first respondent Police on the complaint of the second respondent on 07.07.2020 and the final report was filed in the year 2024 as against the petitioner and six others for the offences under Sections 419, 420, 463, 465, 468, 471, 120B and 406 IPC.

3. The learned counsel appearing for the petitioner submits that it is purely a civil dispute. The second respondent has already filed a civil suit against the petitioner and the 2nd accused on the same issue before the District Munsif Court, Madurai Taluk, in



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O.S.No.130 of 2016, for the relief of declaration, to declare the subject sale deed dated 25.06.2013 which was registered in favour of the second accused, vide document No.5081/2013 as invalid. Suppressing the civil suit of the year 2016 on the subject sale, this complaint has been lodged in the year 2020.

4. The learned counsel for the petitioner further submits that the second accused has released the document, which was registered in his favour, vide document No.5081/2013 dated 25.06.2013. He also submits that the petitioner and the second accused, who are the defendants in O.S.No.130 of 2016 have filed an additional written statement before the learned District Munsif Court, Madurai Taluk, to decree the suit as prayed for in the plaint. Since the grievance of the second respondent was already addressed by the petitioner and the second accused, the continuation of the proceedings in C.C.No. 298 of 2024 is of no use and liable to be quashed.



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5. The learned counsel appearing for the second respondent submits that the petitioner has executed a sale deed in favour of M/s.Muthuvel Auto Finance and M/s.Muthuvel Credits, represented by the defacto complainant, by way of a registered document on 14.03.2013 in Document No.4786 of 2013. The petitioner has created another document on the very same property in favour of the second respondent on 25.06.2013 vide document No.5081/2013. In order to justify the second forged sale dated 25.06.2013, the accused have created another document of cancellation of the earlier document registered in favour of the second respondent (Document No.4786/2013 dated 14.03.2013) by a cancellation deed dated 10.06.2013 as Document No.3881/2014.

5.1. The second respondent, on knowing the same, has filed the suit as against the petitioner and the second accused before the District Munsif Court, Madurai Taluk, in O.S.No.130 of 2016 to declare the second document registered in Document No.5081/2013 dated 25.06.2013 as invalid. At the time of filing the above suit, the



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cancellation deed created by the accused was not reflected in the encumbrance and therefore, the second respondent was not aware of the cancellation deed dated 10.06.2014 and the same was not reflected in the suit in O.S.No.130 of 2013. According to the second respondent, he came to know about the cancellation deed dated 10.06.2014 only in the year 2020 and immediately, he verified the same and lodged the complaint before the respondent Police on 07.07.2020. The case was registered in Crime No.41 of 2020 on the file of the Central Crime Branch, Madurai. One of the suit property is situated in the Madurai Rural District and therefore, a separate complaint was lodged before the District Crime Branch, Madurai, for the property within the rural limit and the same was registered in Crime No.28 of 2020. Since the issue involved in both the cases are one and the same, the case in Crime No.28 of 2020 was transferred and investigated along with the case in Crime No.41 of 2020. The Central Crime Branch, Madurai, has conducted the investigation and filed the final report before the learned Judicial Magistrate and the same is taken cognizance in C.C.No.298 of 2024.



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6. The learned counsel appearing for the second respondent submits that the deed of cancellation dated 10.06.2014 was made by the accused by impersonating another person in the name of the second respondent. Therefore, the second respondent has also lodged a complaint before the Inspector General of Registration against the Sub Registrar who registered the cancellation deed. The Sub Registrar was also added as an accused.

7. The learned counsel further submits that the Sub Registrar, the accused in Crime No.41 of 2020, has also filed a similar quash petition before this Court in CrI.O.P.(MD)No.13874 of 2020 and the same was dismissed that there are *prima facie* materials against the Sub Registrar. Despite the same, the respondent Police has deleted the Sub Registrar and filed the final report. Apart from that, some other accused were also deleted from the charge sheet. Therefore, the second respondent/defacto complainant has filed a protest petition before the learned Judicial Magistrate No.I, Madurai, in



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Cr.M.P.No.2109 of 2024 in C.C.No.298 of 2024 as against this final report deleting the Sub Registrar and other accused in C.C.No.298 of 2024.

8. The learned Government Advocate (Crl. Side) submits that the petitioner/A1 has made a cancellation deed in Document No. 3881 of 2014 on 10.06.2014 by impersonating the 7th accused as the defacto complainant. He further submits that the petitioner is the only beneficiary out of the forged sale deed and therefore, a case has been made out as against the petitioner and other accused. However, the earlier Investigating Officer, by name, one Sudhandira Devi, who conducted the investigation in Crime No.28 of 2020, has filed an alteration report dated 22.03.2021, deleting the Sub Registrar in Crime No.28 of 2020. Subsequently, the case in Crime No.28 of 2020 was transferred to the first respondent as per the order of this Court dated 01.07.2021 passed in Crl.O.P.(MD)No.8087 of 2021. In the quash petition filed by the Sub Registrar in Crl.O.P.(MD)No. 13874 of 2020, this Court, by order dated 08.03.2022, dismissed the



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petition by observing that there is a *prima facie* material as against the Sub Registrar. Thereafter, the Investigation Officer has conducted the investigation and made a recommendation to initiate action against the Sub Registrar. The Deputy Inspector General of Registration, by his proceedings No.4873/A1/2020, dated 30.08.2022, submitted a report to the Inspector General of Registration, stating that the Sub Registrar has registered the impugned document before the issuance of the circular regarding the verification of encumbrance certificate and hence, the Sub Registrar has not committed any irregularity under the registration proceedings.

9. The learned Government Advocate (CrI. Side) further submits that as per the Circular issued by the Additional Director General of Police in Lr.Rc.No.173458/Crime-II(2) 2011 dated 20.09.2011, the Sub Registrar need not verify the encumbrance, however, he is expected to ascertain the identity of the person, who is executing the sale deed.



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10. The learned Government Advocate (CrI. Side) has also relied on the order of this Court passed in CrI.O.P.(MD)No.6447 of 2006 dated 04.09.2006, wherein, this Court has reiterated that the Registering Officer has not been mandated to verify the title and ownership of the person, who alienate the property and he is just bound to register the document, if the document is presented with stamp duty levied on the document and the registration charges.

11. This Court considered the rival submissions made and also perused the materials placed on record.

12. The case of the petitioner is that he was owning certain lands in Survey Nos.87/14, 87/1B, 86/11, 86/13B, 85/10, 87/5, 87/11C, 85/6, 86/11, 86/14, 87/13, 87/12, 87/11B, 85/8, 87/11A, 87/11D, 85/5, 85/18B and 76/3A to an extent of 3 Acres and 90 Cents and he sold the said lands to the defacto complainant, by way of a registered sale deed, vide Doc.No.4786/2013, dated 14.03.2013.

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Thereafter, the petitioner/A1 sold the said lands by committing double documentation to A2 on 25.05.2013, by executing 13 documents in Doc.No.5077/2013, 5078/2013, 5079/2013, 5080/2013, 5081/2013, 5083/2013, 5084/2013, 5085/2013, 5086/2013, 5087/2013, 5088/2013, 5089/2013 and 5335/2013. The petitioner/A1 has made a cancellation deed in Doc.No.3881/2014 dated 10.06.2014 to cancel the document No.4786/2013 by way of bilateral cancellation by impersonating the 7th accused as defacto complainant and cancelled the sale deed registered in favour of the defacto complainant in Doc.No.4786/2013 dated 14.03.2013.

13. The defacto complainant/second respondent claims that he came to know about the cancellation of document only in the year 2020 and he lodged the complaint before the Central Crime Branch, Madurai, which was registered as Crime No.41 of 2020 against the petitioner and others. Now, the final report was filed and the same was taken on file in C.C.No.298 of 2024.



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14. The petitioner has filed this quash petition on the ground that a civil dispute is pending between the petitioner and the defacto complainant in O.S.No.130 of 2016 before the District Munsif Court, Madurai, wherein, the second respondent/defacto complainant has not raised any ground of impersonation and cancellation of document. However, the defacto complainant/second respondent has preferred this complaint after four years from the date of filing the suit in order to wreck vengeance against the petitioner. However, the learned counsel for the petitioner has fairly submitted that the second accused has released the document, pursuant to the direction of this Court and has also filed a memo before the District Munsif Court, Madurai, in O.S.No.130 of 2016 along with an additional written statement to allow the suit in favour of the second respondent/plaintiff.

15. This case in Cr.No.41 of 2020 was originally registered after obtaining a legal opinion from the Legal Advisor to the Commissioner of Police, Madurai City, on 16.06.2020. The Legal



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Advisor suggested the respondent Police to register the case including the Sub Registrar and he was shown as accused No.11.

The Sub Registrar/A11 has filed a quash petition before this Court in CrI.O.P.(MD)No.13874 of 2020 and the same was dismissed by this Court on 08.03.2022, with a finding that there are *prima facie* materials for the commission of cognizable offence against the Sub Registrar. However, the name of the Sub Registrar was deleted from the final report, by taking advantage of the report filed by the erstwhile Investigating Officer in Crime No.28 of 2020, which was subsequently merged with Crime No.41 of 2020.

16. The Investigating Officer, in his status report, has justified that the Sub Registrar was not added as an accused, in view of the report of the Deputy Inspector General of Registration to the Inspector General of Registration dated 30.08.2022. However, the Investigating Officer has conveniently omitted to refer the decision taken by the Inspector General of Registration to cancel all these documents. The Inspector General of Registration has also found



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the mischief played by the Sub Registrar and directed the Deputy Inspector General of Registration to initiate departmental proceedings against the Sub Registrar. The final decision taken by the Inspector General of Registration has been conveniently omitted by the Investigating Officer. But, the report filed by the Deputy Inspector General of Registration during the enquiry, to the Inspector General of Registration alone was referred for deleting the name of the Sub Registrar/A11. The Investigating Officer has referred to the provisions under Section 52 of the Registration Act and justified the conduct of the Sub Registrar.

17. This Court is surprised to see the manner in which the order of this Court dated 04.09.2006 passed in CrI.O.P.No.6447 of 2006 has been referred by the Investigating Officer in his status report. This Court is of the impression that the status report filed by the Investigating Officer itself has been prepared by the Sub Registrar.



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18. There is no dispute with regard to the provisions of Section 52 of the Registration Act and the order passed by this Court in CrI.O.P.(MD)No.6447 of 2006 dated 04.09.2006. The issue to be decided is whether the Sub Registrar has verified the identity of the person who executed the cancellation deed. There cannot be any unilateral cancellation without the appearance of both parties before the Sub Registrar. However, the document registered in favour of the defacto complainant/second respondent as Document No. 4786/2013 dated 14.03.2013 was cancelled without the presence of the second respondent/defacto complainant.

19. The case of the defacto complainant/second respondent is that the sale deed document registered in his favour vide Doc.No. 4786/2013 dated 14.03.2013 was cancelled by the petitioner/A1 with the help of the Sub Registrar. The driving licence of the second respondent, which was used as the ID proof at the time of registering the sale deed, was used again as the ID proof in the cancellation deed. The Inspector General of Registration, after conducting an



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enquiry, found that the cancellation of sale deed was made in a mischief manner by impersonation. The person, who has impersonated the defacto complainant in cancelling the document, though cited as an accused was not secured. Admittedly, the signature differs, the thump impressions are also obtained during registration. The Investigation Agency ought to have secured the accused No.7, the impersonator and should have verified the thump impression in the cancellation document.

20. The Investigating Agency has taken a stand that the petitioner has not co-operated with the investigating agency and therefore, they were not in a position to identify the person who has impersonated the defacto complainant. If the petitioner is not co-operating with the investigation, the Investigating Agency ought to have filed necessary application to cancel the anticipatory bail already granted to the petitioner. Instead, a justification has been made for this irresponsible investigation that the accused has not co-operated with the investigation. Therefore, this Court is of the view



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that the investigation has not been conducted in a proper manner in this case. The second respondent/defacto complainant has already filed a petition in Cr.M.P.No.2109 of 2024 before the learned Judicial Magistrate, Madurai, for further investigation in Crime No. 41 of 2020 and the same is also pending.

21. This nature of commission of offence cannot be absolved on the cancellation of documents or the additional written statement filed by the petitioner before the Civil Court for allowing the relief in favour of the plaintiff sought for in the plaint. Further, this Court, in a Judgment in CrI.O.P.No.27722 of 2012, dated 07.01.2021 (Dr.Amudhan vs. The Inspector of Police, North Crime Branch, Vellore and another), has held as follows:

“14. In the opinion of this Court, in a case of this nature where there has been impersonation and forgery of records, even if the accused and the victim enter into an unholy compromise, the offences can neither be compounded nor quashed on the ground that the siblings have settled the matter amongst



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themselves.”

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22. Considering the nature of offence and also considering the materials placed before this Court, this Court is not inclined to quash the proceedings in C.C.No.298 of 2024 pending on the file of the Judicial Magistrate No.I, Madurai District.

23. Accordingly, this Criminal Original Petition is dismissed. However, in the interest of justice, this Court is inclined to issue a direction to the learned Judicial Magistrate to decide the Cr.M.P.No. 2109 of 2024 in C.C.No.298 of 2024 within a period of four weeks from the date of receipt of a copy of this order and ensure a fair and proper investigation is conducted in Crime No.41 of 2020 on the file of the first respondent Police. Consequently, connected miscellaneous petitions are closed.

31.07.2024

NCC : Yes/No
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B.PUGALENDHI, J.

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To

1. The Commissioner of Police,
Madurai.
2. The Inspector of Police,
Central Crime Branch,
Madurai City.
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

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