



CRL OP(MD). No.12779 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Dated : 20.08.2024

CORAM

The Hon`ble Mr.Justice D.BHARATHA CHAKRAVARTHY

CRL OP(MD). No.12779 of 2023

P.Vellaisamy

... Petitioner

Vs.

1.The State rep. By

The Inspector of Police,
Anti Land Grabbing Cell,
District Crime Branch,
Thoothukudi District.
(Crime No.26/2021-DCB)

2.G.Rajendhran

3.G.R.Ananthapadmanapan,

4.G.R.Radhakrishnan

... Respondents

PRAYER :- This Petition is filed under Section 482 Cr.P.C, to call for the entire records relating to order dated 30.03.2023 made in Cr.M.P.No. 284 of 2023 in Crime No.26 of 2021 on the file of the learned Judicial Magistrate No.IV, Thoothukudi, Thoothukudi District and to set aside impugned deletion report dated 09.07.2022.



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For Petitioner : Mr.S.Saravanan

For Respondents : Mrs.M.Aasha
Government Advocate (Crl.Side) for R1

: Mr.N.R.Elango Senior Advocate
for Mr.A.S.Aswin Prasannd for R2 to R4

ORDER

The Criminal Original Petition is filed to call for the records relating to the order dated 30.03.2023 made in Cr.M.P.No. 284 of 2023 in Crime No.26 of 2021 on the file of the learned Judicial Magistrate No.IV, Thoothukudi, Thoothukudi District.

2. The case of the petitioner is that the petitioner is the de facto complainant in Crime No.26 of 2021. When the petitioner was the owner of the property, the accused persons in the case represented before the Sub-Registrar as if they are the owners of the property, by producing forged identity cards, etc, sold the property to the respondents 2 to 4 herein, who are the Directors of the Company, known as GRT Jewellery Limited. When all of them have colluded and tried to knock away the petitioners property, the petitioner had given the complaint. Earlier, the



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quash application filed by the accused was also dismissed. In that scenario, the respondent themselves have filed a report on 09.07.2024 to delete the said Accused 1 to 3, namely, G.Rajendran, G.R.Ananda Padmanabhan and G.R.Radhakrishnan, who are the respondents 2 to 4 in the present petition. On the said request made by the respondent police, by an order dated 03.03.2023, the Judicial Magistrate issued notice to the defacto complainant on 30.03.2023. The defacto complainant appeared before the learned Judicial Magistrate and filed detailed objections. Without considering the same in detail, the learned Judicial Magistrate had passed the impugned order dated 30.03.2023 and the petition was allowed. The order passed by the learned Judicial Magistrate is extracted hereunder:

“De-facto Complainant Present. Objection recorded. Petition is allowed. ”

3. Mr.S.Saravanan, learned counsel appearing on behalf of the petitioner, would submit that it can be seen that the order is absolutely nonspeaking. The petitioner has got various grounds to agitate before the learned Judicial Magistrate. Only upon detailed enquiry, the complicity



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of the Accused 1 to 3 can be determined by the trial Court. Therefore, when the law enjoins upon the Court to hear the de facto complainant before deleting the Accused 1 to 3 and when the defacto complainant has appeared before the trial Court and submitted his objections, the trial court ought to have considered the same in detail and non consideration thereof, is erroneous in law and therefore, the impugned order has to be quashed and the matter be remanded back to the trial Court.

4. The learned Government Advocate (Crl. Side) would submit that after detailed investigation, a reasoned application was made before the trial court and trial Court accepted the same.

5. Mr.N.R.Elango, learned Senior Counsel appearing on behalf of respondents 2 to 4, by taking this Court through the application filed by the first respondent police, would submit that there is a categorical finding that the other accused had not only cheated the defacto complainant, but, as a matter of fact cheated the Accused Nos.1 to 3, the Directors of the company by falsely representing as if the land is being procured only from the rightful owner. As a matter of fact, Accused Nos.



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1 to 3 are also victims, having lost their money. In any event, after coming to know that their purchase was illegal and not from the original owner, immediately they executed a registered document, releasing of the title of the property and conveying the same to the defacto complainant. The defacto complainant after receipt of the said document has also dealt with the property and sold this property to the third party. Therefore, it can be seen that there is no error whatsoever in the Learned Judicial Magistrate, ultimately, deciding to drop the accused Nos.1 to 3.

6. I have consider the rival submissions made on either side and perused the material records of the case.

7. As rightly contended by the learned counsel for the petitioner, the order of the trial Court is non-speaking. When the defacto complainant had filed their objections, when the trial Court chose to reject the objections, ought to have given its reasons, for allowing the petition filed by the respondent police. To that extent, the petitioner is entitled to succeed. However, the next question is that whether to remand the matter back to the trial Court for reconsideration. In this regard, a



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perusal of the petition filed by the police, it is clear that it is only the other accused, engaged by the accused Nos.1 to 3 for the purpose of procuring lands for them for establishment of their solar plant, having not able to contact the original owner, with the intention to cheat the Accused Nos.1 to 3 also, had falsely represented as if they are procuring the land from the original owner and had made arrangements among themselves to impersonate as if the defacto complainant himself is selling the property and by committing the forgery and the other offences had executed the sale deed.

8. I have also perused the sale deed, whereby the accused Nos. 1 to 3 have paid the sale consideration through proper demand drafts. In that view of the matter, after detailed investigation, the investigating authority has concluded that A1 to A3 had no complicity and as a matter of fact, they were also victims of the crime committed by the other accused no purpose whatsoever would be served by remanding the matter once again before the trial court. As a matter of fact, it can be seen that release deed has been executed by A1 to A3 and the defacto complainant has also dealt with the property. I am of the view that even though the



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order of the learned Magistrate is non speaking, the ultimate decision to accept the petition filed by the first respondent police cannot be found fault with.

9. For all the above reasons, the *Criminal Original Petition is disposed of*, by holding that even though the order of the learned Magistrate is unsustainable, as it is non-speaking, still, there is no question of remanding the matter for further decision and the ultimate decision of the learned Magistrate to delete the respondents 2 to 4 / A1 to A3 stands upheld.

20.08.2024

Internet : Yes
Index : Yes/ No
NCC : Yes/No
LS

TO

1. The Inspector of Police,
Anti Land Grabbing Cell,
District Crime Branch,
Thoothukudi District.



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D.BHARATHA CHAKRAVARTHY,J

LS

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

ORDER
IN
CRL OP(MD) No.12779 of 2023

Date : 20.08.2024