



Crl.O.P.(MD)No.15112 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED:26.03.2024

CORAM:

THE HONOURABLE MR.JUSTICE **M.DHANDAPANI**

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and

Crl.M.P.(MD).No.9880 of 2022

M/s.LIC Housing Finance Limited,
Through its Area Manager,
Grace Complex 2nd Floor,
No.67, Behind New Bus Stand,
Tirunelveli.

... Petitioner

Vs.

1.S.S.Murugan
2.G.Muralidharan
3.V.Joseph Manoharan
4.Anthoni Sagaya Gomas
5.N.Natarajan

...Respondents

PRAYER: Criminal Original Petition is filed under Section 482 of Cr.P.C, to call for the records in C.C.No.4 of 2022 on the file of the learned Judicial Magistrate, Special Court for Land Grabbing Case, Thoothukudi, filed against the petitioner for the alleged offence punishable under Sections 120(B), 465, 468, 471 and 420 IPC and quash the said complaint in respect of the petitioner/accused No.3 as being an abuse of process of law, untenable in the facts and circumstances of the case.



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For petitioner : Mr.V.Veerapandian
for M/s.Vastlaw Associates
For R1 : Mr.R.Ilayaraja
For R2, R3 and R5 : No appearance

ORDER

This Criminal Original Petition has been filed seeking to quash the proceedings in C.C.No.4 of 2022 on the file of the learned Judicial Magistrate, Special Court for Land Grabbing Case, Thoothukudi, against the petitioner herein.

2. The case of the prosecution is that the first respondent has availed housing loan on 01.08.2001 and 01.09.2003 to the tune of Rs.5,00,000/- from the petitioner Company for the purpose of purchasing the property in R.S.No.967/3, Plot No.52, situated at Sankaraperi Village, Thoothukudi and he could not repay the loan due to sudden illness. In order to repay the loan, the first respondent has decided to sell the property and executed a registered power of attorney by appointing the second respondent as his power agent and insisted the second respondent to sell the property and settle the loan amount with LICHFL, however, since he has evaded to respond to the first respondent with an intention to cheat him, the first respondent cancelled the power of attorney executed



by him and obtained Encumbrance Certificate. The first respondent came to know that the second respondent executed a sale agreement in favour of the third respondent herein. Moreover, the first respondent had not paid the loan amount, however, while verifying the loan amount with LICHFL, he was informed as if he had given some cheques drawn in various Banks in order to reduce his liability and eventually, the outstanding loan amount had been reduced and on enquiry through RTI, the first respondent received information that those cheques were not issued by the concerned Banks. All the accused persons had cheated the first respondent as if the loan amount has been paid and the first respondent has lodged a complaint with the Police, however, the same was closed as mistake of fact. Thereafter, he made a private complaint before the trial Court and the same was taken on file in C.C.No.4 of 2022 for the offence punishable under Sections 120(b), 465, 468, 471 and 420 IPC.

3. The learned counsel appearing for the petitioner submits that the first respondent had availed housing loan from the petitioner Company and deposited title deeds with the petitioner Company for due repayment of loan. Thereafter, the first respondent executed the power of attorney in favour of the second respondent in order to settle the loan amount and on



the strength of the same, the second respondent has executed a sale agreement in favour of the third respondent and the third respondent had paid the outstanding loan amount and paid the balance sale consideration to the first respondent and thereafter, a sale deed was executed in favour of the third respondent. A consumer complaint was filed by the third respondent for return of original documents before the District Consumer Disputes Redressal Forum, Thoothukudi and the District Consumer Disputes Redressal Forum, Thoothukudi, directed the petitioner to hand over the original documents to the third respondent, in pursuant to which, the original documents were handed over to the third respondent. Despite, the first respondent on the same set of facts filed a suit in O.S.No.278 of 2010 before the Subordinate Court, Tuticorin and the same was dismissed and he has lodged a complaint before the Police and it was closed as 'mistake of fact'. Thereafter, the first respondent has filed this false complaint before the trial Court against the petitioner and the other accused persons. Without considering the veracity of the facts, the trial Court has taken the same on file and the petitioner is not required to face the ordeal of the criminal complaint. Hence, he prays for quashing C.C.No.4 of 2022.



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4. The learned counsel appearing for the first respondent reports no instructions from the respondents, however, submits that the first respondent is not in possession of the property and the subject property was handed over to the third respondent/second accused.

5. Heard Mr.V.Veerapandian, the learned counsel appearing for the petitioner and Mr.R.Ilayaraja, the learned counsel appearing for the first respondent.

6. From the records, it is seen that the first respondent has availed loan from the petitioner Company to the tune of Rs.5,00,000/- for purchasing the property and he could not repay the loan due to sudden illness and the original title deeds were deposited by the first respondent with the petitioner Company for due repayment of loan. Thereafter, in order to settle the loan, the first respondent had executed the power of attorney in favour of the second respondent in respect of the subject property and thereafter, the second respondent has executed a sale agreement in favour of the third respondent as the third respondent has given an assurance that he will settle the entire loan amount, and subsequently, he had paid the entire loan amount and the balance sale consideration had been paid to the first respondent. On 20.02.2008, a sale



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deed was executed in favour of the third respondent and thereafter, the third respondent had filed a consumer complaint for return of original documents before the District Consumer Disputes Redressal Forum, Thoothukudi and the petitioner Company was directed to hand over the same, and accordingly, the original documents were handed over to the third respondent. Moreover, it is clear from the submission made by the learned counsel appearing for the respondents that the property was handed over to the third respondent/second accused, pursuant to the loan amount settled by the third respondent and the first respondent is not in possession of the property. Therefore, unnecessarily making the petitioner, who is the Area Manager of LIC Housing Finance Limited, to face the trial is not tenable one. Hence, the impugned proceedings in C.C.No.4 of 2022 on the file of the learned Judicial Magistrate, Special Court for Land Grabbing Case, Thoothukudi is quashed, insofar as the petitioner is concerned.

7. In the result, this Criminal Original Petition is allowed.
Connected miscellaneous petition is closed.

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Index : Yes/No
Internet : Yes/No
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To
The Judicial Magistrate, Special Court for Land Grabbing Case,
Thoothukudi.



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M.DHANDAPANI. J.

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