



Crl.R.C.(MD)No.939 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 01.10.2024

Delivered on : 22.11.2024

CORAM

THE HONOURABLE MR.JUSTICE K.MURALI SHANKAR

Crl.R.C.(MD)No.939 of 2024

and

Crl.M.P(MD)Nos.10368 and 10369 of 2024

Ananthakrishnan

: Petitioner/Petitioner/A2

Vs.

The Inspector of Police,
Manamadurai Police Station,
Crime No.334 of 2013.

: Respondents/Respondent/
Complainant

PRAYER : Criminal Revision Petition filed under Section 438 r/w 442 BNSS, to call for the records relating to the order, dated 19.05.2023 made in old Crl.M.PNo.2867/2021 (renumber in Crl.M.P.No.14 of 2022 in Old C.C.No.86/2016 (Re-number in C.C.No.438 of 2022) on the file of the Judicial Magistrate Court, Manamadurai and set aside the same as illegal.

For Petitioner : Mr.A.Sivaji

For Respondent : Mr.K.Sanjai Gandhi
Government Advocate (Crl. Side)



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ORDER

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The Criminal Revision is directed against the order passed in Crl.M.P.No.14 of 2022 (old Crl.M.PNo.2867/2021) in C.C.No.438 of 2022 (Old C.C.No.86/2016) on the file of the Judicial Magistrate Court, Manamadurai, dismissing the petition for discharge filed under Section 239 of the Code Criminal Procedure.

2. The petitioner is the accused in C.C.No.438 of 2022 for the alleged offence under Sections 468, 471, 473, 120B IPC on the file of the Judicial Magistrate Court, Manamadurai.

3. The case of the prosecution is that the defacto complainant Jeyaraman is a practising Advocate; that the property in S.No.222/4A extent of 0.18.0 Aers (44 cents) in Manamadurai Village, Manamadurai Taluk in Patta No.782 came to be owned by one Leelavathi, through a Will; that the defacto complainant Jeyaraman had purchased 10 cents from the said Leelavathi vide sale deed, dated 10.03.2000; that subsequently, two persons Dhanalakshmi and Azhagu had purchased three cents of land each in the said survey number from the said



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Leelavathi; that the defacto complainant had then applied patta change and after enquiry, the land purchased by the defacto complainant was assigned sub division as 222/4A2 whereas the land owned by the Leelavathi was assigned S.No.222/4A1; that the defacto complainant had purchased three cents of land owned by Dhanalakshmi, vide sale deed, dated 30.03.2012; that subsequently, the defacto complainant along with one Kalimuthu of Kattu Paramakudi had jointly purchased the remaining 28 cents from the said Leelavathi vide sale deed, dated 19.03.2013 and since then they have been in possession and enjoyment of the same; that the petitioner/first accused, who is a business man and very rich person had approached the defacto complainant in person and through some other persons compelling him to sell the said property, but the defacto complainant had refused to sell the same; that the first accused with evil motive to get the said property at any costs had conspired with the other accused and created a forged computer patta, dated 03.03.2013, as if the property is owned by the second accused and on the basis of the said patta, they have prepared a sale deed as if the accused 2, 6 to 11 are executing the sale deed in favour of the first accused and that the accused 12 and 13 had attested the sale deed and got the document registered on



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06.06.2013 vide document No.2307/2013 on the file of the Manamadurai
SRO.

4. On the basis of the complaint lodged by the defacto complainant, FIR came to be registered in Crime No.334 of 2013 against two named persons and six others including the petitioner for the alleged offence under Sections 468, 471, 473 and 120 (b) of IPC. After completing the investigating, charge sheet came to be filed and the same was taken on file in C.C.No.438 of 2022 and is pending on the file of the Judicial Magistrate, Manamadurai. When the case was pending for framing of charges, the first accused has filed the above petition seeking discharge from the above case invoking Section 239 of Cr.P.C.

5. The case of the petitioner is that the first petitioner/accused is an innocent and law abiding senior citizen and paying supertax to the income tax department; that he is a heart-patient and he has been falsely implicated in the above case; that a civil dispute has been converted into a criminal case and the first accused is purposely and falsely implicated just to damage the prestige and image of the first accused in the society;



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that even as per the prosecution case, the first accused has got no connection in preparing the 10/1 extract regarding the property in question; that according to the prosecution, the other accused have forged the computerized 10/1 extract as if they have got patta, that the first accused believing the words of the other accused has purchased the said property through registered documents and the first accused is a bonafide purchaser for lawful consideration and in good faith and without the knowledge that the computerized 10/1 extract is a forged document; that the sale deed taken by the first accused is not a forged document; that if the vendor had forged certain documents to establish their title, the petitioner purchaser could not be liable; that there are two civil cases pending in competent civil Court regarding the property in dispute; that the suit in O.S.No.27 of 2009 now in O.S.No.45 of 2019 on the file of the Fast Track Mahila Court was filed by the accused 2 and 3 for declaration and injunction against the defacto complainant and his vendor; that the said suit was pending for long even prior to the filing of the FIR, that the first accused has also filed a civil suit in O.S.No.103 of 2013 against the defacto complainant and his vendor for declaration and injunction and the same is now pending on the file of the Sub Court,



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Manamadurai; that there are no grounds to frame charges against the petitioner/first accused and the charges levelled against him are groundless and that therefore, the petitioner was constrained to file the above application seeking discharge.

6. The respondent police has filed a counter statement raising objections stating that the petitioner is a vibrant business man and paying supertax to the income tax department; that the first accused is having money power as well as muscle power; that the statements recorded under Section 161 of Cr.P.C, confession given by the co-accused, documents and material objects recovered through the investigation would reveal that the offence alleged had taken place; that the defacto complainant in his complaint as well as in the statement has stated that the first accused had compelled him to sell the property in dispute to him and the defacto complainant had refused for the same; that the second accused Ramachandran has given confession stating that the first accused had purchased the property knowing fully well about the background and also the forgery and when the same was informed to him, the defacto complainant had replied that there is no problem and he would manage



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everything; that the Tahsildar has confirmed that the document 10/1 extract is a forged one; that since the first accused himself admitted the forgery, he could not take stand of bonafide purchaser; that the defacto complainant has sent a copy of the caveat petition to the defacto complainant, which could only corroborate the confession given by the second accused; that on 03.06.2023, they have created 10/1 extract to the disputed Manamadurai Town S.No.222/4A; that the above petition has been filed to drag on the proceedings and the same would amount to abuse of process of law and that since the above petition is not maintainable, the same is liable to be dismissed.

7. It is admitted by both the parties that the first accused is a vibrant business man and has been paying supertax to the income tax department. The petitioner/first accused has admitted that he had purchased the property in S.No.222/4A from the accused 2 to 11 vide sale deed dated 05.06.2013.

8. The main contention of the petitioner is that he has filed a suit in O.S.No.103 of 2013 against the defacto complainant and his vendor to



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declare that the property in dispute is belonging to him and for consequential permanent injunction restraining the defendant and their men from in any manner interfering with the petitioner's peaceful possession and enjoyment of the suit property and the same is pending on the file of the Sub Court, Sivagangai; that the accused 1 and 2 have filed the suit in O.S.No.45 of 2009 against the defacto complainant and his vendor claiming the reliefs of declaration and permanent injunction in respect of the property in dispute and the same is pending on the file of the Fast Track Mahila Court, Sivagangai; that the defacto complainant has filed a suit in O.S.No.31 of 2020 against the accused and others to declare that the sale deed, dated 06.06.2013 executed in favour of the first accused is null and void and for mandatory injunction for removal of the entry with regard to the registration of the sale deed, dated 06.06.2013 from the encumbrance register and for permanent injunction restraining the first accused from alienating or encumbering the suit property and the same is pending on the file of the Principal District Munsif Court, Manamadurai and that since three civil suits are pending, it is clearly evident that the defacto complainant has been attempting to convert the civil case as a criminal case.



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9. As rightly contended by the learned Government Advocate (Criminal Side), just because there existed property disputes between the parties and consequential civil suits are pending between the parties, that by itself is not a ground to quash the complaint or charge sheet.

10. As already pointed out, it is the specific case of the prosecution that the accused had created a forged patta as if the property is belonging to the second accused and thereafter, they have executed a sale deed in favour of the first accused, but according to the petitioner, he was not aware about the forgery and since the other accused had approached him and requested him to purchase the property and that since the property stood in their name, he purchased the property for valuable consideration and as such, he can only be considered as a bonafide purchaser. But according to the prosecution, the defacto complainant in his complaint as well as in the statement given under Section 161 Cr.P.C., has specifically stated that the first accused had approached the defacto complainant in person and through some other person and compelled him to sell the suit property, for which, the complainant had refused and that thereafter only



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forged patta was created and on that basis, documents came to be executed.

11. More importantly, the learned Government Advocate (Criminal Side) would submit that the Thasildar has given report stating that the patta produced by the accused is a forged one and that, that was not issued by the Revenue Department.

12. Considering the above, as rightly contended by the learned Government Advocate (Criminal Side), whether the petitioner was having knowledge about the creation of forged patta, whether there was a conspiracy to create the forged patta between the petitioner and the other accused or whether the petitioner had purchased the property without any knowledge about the forged patta are the aspects that cannot be gone into in the present proceedings and are matter for trial.

13.The learned counsel for the petitioner would submit that the defacto complainant has already filed a petition before the District Registrar, Sivagangai and after enquiry, an order was passed by the



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Registrar on 19.05.2023; that the petitioner has filed a writ petition in W.P.(MD)No.1606 of 2024 and the same is pending; that the issue involved in the said writ petition is covered by the orders passed by the Hon'ble Division Bench in W.P.No.10291 of 2022, etc., batch, dated 02.08.2024 in and by which, Section 77 A was struck down as unconstitutional and it is retrospective.

14.The learned counsel for the petitioner would further submit that the registered document is much earlier to the said amendment and hence, the above writ petition is to be allowed.

15.As rightly contended by the learned Government Advocate (Criminal Side), the pendency of the writ petition and the order passed by the Division Bench of this Court striking down Section 77 A as unconstitutional have nothing to do with the pending criminal case against the petitioner and other accused.

16. At this juncture, it is necessary to refer the judgment of Hon'ble Supreme Court in the case of *State of Inspector of Police, Chennai Vs. S.Selvi and another* reported in (2018) 13 SCC 45) .



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“7. It is well settled by this Court in catena of judgments including the cases of Union of India v. Prafulla kumar Samal (1979) 3 SCC 4 , Dilawar Balu Kurane v. State of Maharashtra (2002) 2 SCC 135, Sajjan Kumar v. CNI (2010) 9 SCC 368, State v. A.Arun Kumar (2015) 2 SCC 417, Sonu Gupta v. Deepak Gupta (2015) 3 SCC 424, State of Orissa v. Debendra Nath Padhi (2003) 2 SCC 711, Niranjan Singh Karan Singh Punjabi vs. Jitendra Bhimraj Bijjayya (1990) 4 SCC 76 and Superintendent & Remembrancer of Legal Affairs, West Bengal v. Anil Kumar Bhunja (1979) 4 SCC 274 that the Judge while considering the question of framing charge under Section 227 of the Code in sessions cases (which is akin to Section 239 CrPC pertaining to warrant cases) has the undoubted power to sift and weigh the evidence for the limited purpose of finding out whether or not a prima facie case against the accused has been made out; where the material placed before the court discloses grave suspicion against the accused which has not been properly explained, the court will be fully justified in framing the charge; by and large if two views are equally possible and the Judge is satisfied that the evidence produced before him while giving rise to some suspicion but not grave suspicion against the accused, he will be fully within his rights to discharge the accused. The Judge cannot act merely as a post office or a mouthpiece of the prosecution, but has to consider the broad



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probabilities of the case, the total effect of the statements and the documents produced before the court, any basic infirmities appearing in the case and so on. This however does not mean that the Judge should make a roving enquiry into the pros and cons of the mater and weigh the materials as if he was conducting a trial.”

17. It is settled law that at the stage of framing charge, the Court has to prima facie consider whether there is sufficient ground for proceeding against the accused and the Court is not required to appreciate evidence to conclude whether the materials produced are sufficient or not for convicting the accused.

18. It is also settled law that while considering an application seeking discharge from a case, the Court is not expected to go deep of the probative value of the material on record, but on the other hand, the Court has to form a presumptive opinion as to the existence of the factual ingredients constituting the offence alleged, and for that purpose, the Court cannot conduct a roving enquiry into the pros and cons of the matter and weigh the evidence as if it is a main trial.



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19. In the present case, as rightly contended by the learned Government Advocate (Criminal Side) there are specific allegations levelled against the petitioner in the complaint as well as in the statement recorded under Section 161 Cr.P.C. Whether the case put forth by the prosecution is true or whether the case canvassed by the petitioner with regard to the above transactions is true cannot be considered and decided in the present proceedings and the same are matter for trial.

20. It is pertinent to note that the statements recorded under Section 161 of Cr.P.C., confession statement by the co-accused, report of the Thasildar and other materials collected would clearly reveal that there are sufficient materials available to proceed against the accused and there existed *prima facie* materials to frame charges against the accused.

21. Considering the above, the impugned order dismissing the discharge application cannot be found fault with. Hence, this Court concludes that the Criminal Revision is devoid of merits and the same is liable to be dismissed.



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22. In the result, Criminal Revision Case is dismissed.

Consequently, connected Miscellaneous Petitions are closed.

22.11.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
das

To

- 1.The Inspector of Police,
Manamadurai Police Station,
- 2.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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K.MURALI SHANKAR,J.

das

Pre-delivery order made in
Crl.R.C.(MD)No.939 of 2024
and
Crl.M.P(MD)Nos.10368 and 10369 of 2024

Dated: 22.11.2024