IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.04.2025

CORAM:

THE HONOURABLE MR.JUSTICE **G.K.ILANTHIRAIYAN**

CRL.O.P.No.9601 of 2025 and
Crl.MP.Nos.6356 & 6357 of 2025

T.Subbulakshmi ... Petitioner

Versus

1.State of Tamilnadu,
Rep. by Inspector of Police,
Central Crime Branch(CCB),
Team XVI Egmore, Chennai 600 008
(Crime No.233 of 2012)

2.Rajaiah ... Respondents

PRAYER : Criminal Original petition filed under Section 528 BNSS, 2023 praying to call for the records in C.C.No.1173 of 2017 on the file of the learned Judicial Magistrate No.1, Alandur and quash the same.

For Petitioner : Mr.Shanmugasundaram,
Senior Counsel
for Mr.Manuraj

For Respondents
For R1 : Mr.R.Vinothraja,
Government Advocate(crl.side)

For R2 : No appearance

ORDER

This Criminal Original Petition is filed to quash the proceedings in C.C.No.1173 of 2017 on the file of the learned Judicial Magistrate No.1, Alandur.

2. The complaint is that L.W.1-Rajaiah, lodged a complaint stating that on 08.09.2008, he entered into an agreement for sale with S.Ravi/L.W.3 in respect of the vacant building site to an extent of 12,000 sq.feet situated at New No.51, Old No.189, Sholinganallur Village, Tambaram Taluk, Kancheepuram District in Survey Nos.12/1 and 12/2 (Plot No.297) and the agreement for sale was registered before Sub Registrar Office, Neelankarai in Doc.No.3679/2008 on 08.09.2008. The sale price was fixed at Rs.30 lakhs, on the date of agreement Rs.5 lakhs was paid as advance. The said Ravi claimed himself as Power of Agent of Chandresh M. Kambani (L.W.2) S/o.Late Mahendrakumar Naveenchandra Kambani and Malini Mahendrakumar Naveenchandra Kambani. L.W.2 executed a general power of attorney in favour of L.W.3/Ravi registered as Doc.No.1314/2007 on 09.07.2007 in the office of Joint Sub Registrar Office, Mumbai-1. L.W.2's parents purchased the property through one Ganesan, Power Agent of Chokalingam Mudaliar in the year 1967 vide Doc.No.881/1967. Thereafter, L.W.2's mother expired on 07.02.1980 and his father expired on 26.08.1997. L.W.2 authorised L.W.3 to deal with the above

said land. After agreement of sale, the de-facto complainant applied for Encumbrance Certificate in Sub Registrar Office, Neelankarai and came to know that the said property, changed hands to three persons, as though Mahendrakumar Naveenchandra Kambani executed general power of attorney in favour of Dhanalakshmi (A2) on 12.04.2007 in Doc.No.210/2007 before Joint Sub Registrar Office, Trichy. Using the said power of attorney, Dhanalakshmi executed a sale deed in favour of Subbulakshmi(A1) vide Doc.No.3052/2007 on 17.05.2007 in Sub Registrar Office, Neelankarai, in turn, Subbulakshmi executed a settlement deed in favour of her elder daughter, Yuba T.Raichard(A3) in Doc.No.1665/2008 on 22.02.2008 in Sub Registrar Office, Neelankarai.

2.1 It was further found that Subbulakshmi, in the same manner, executed a sale deed in favour of his another daughter T.Yamini for Plot No.277 and started putting up construction in Plot Nos.297 & 277 all over the 10 grounds. L.W.3/Ravi, who is the power of agent for Plot No.297, fearing for the consequences at the hands of Subbulakshmi (A1) and Yuba T.Raichard(A3), who are wife and daughter of K.Thukkaiandi (A4), an I.P.S. Officer holding senior position in the police department, lodged a complaint. The first respondent police on registration of F.I.R., took up investigation. During investigation, it was found that the first accused is the wife of K.Thukkaiandi (A4), second accused impersonated herself as Tamilarasi, who is none other than A1's brother'?s mother-in-law. A3 is the daughter of A1 and A4. Husband of A1 is a Senior Police Official. The property in Sholinganallur was sold by one Ganesan, power of agent of Chokalingam Mudaliar on 25.02.1967 to the parents of L.W.2, in short Kambani of Mumbai in Doc.No.881/1967. The parents of L.W.2 passed away during 1980 and 1997. Thereafter, the property devolved on L.W.2. On 09.07.2007, L.W.3 approached L.W.2 along with L.W.6/Thangavel, L.W.7/Annadurai and one Philip. L.W.6 is the relative of L.W.3. Thereafter a power of attorney was executed by L.W.2 in favour of L.W.3 in Doc.No.1314/2007 in the office of Joint Sub Registrar Office, Mumbai-1. One of the condition is that as per clause 11, the sale to be concluded within one year.

2.2 Thereafter, all came back from Mumbai. L.W.3 was acting on the advise of L.W.7. Thereafter, L.W.4 was approached, who is a real estate broker, who identified L.W.1, who intend to purchase the property. Thereafter, L.W.1 paid an advance of Rs.5 lakhs and agreement for sale was registered on 08.09.2008 in Doc.No.3679/2008 in Sub Registrar Office, Neelankarai. When L.W.1/ de-facto complainant visited the property, he saw construction activities were carried by A1. When he questioned A1, she informed that she acquired the property and the documents held by L.W.1 was forged thereafter. L.W.1 questioned L.W.3 about the same, he informed that his uncle L.W.7 is only aware of the particulars. Thereafter, he approached L.W.2, who handed over the documents whatever available with him. Thereafter, during investigation it was found that A1 is the master mind behind the entire operation, who made arrangement for execution of power of attorney in favour of A2, in the name of L.W.2?'s father and got registered power of attorney in favour of A2 in Doc.No.210/2007 on 12.04.2007 as though Mahendrakumar Naveenchandra Kambani executed the power of attorney. The said Mahendrakumar Naveenchandra Kambani passed away 10 years prior to the execution of Power of Attorney document in his name. Using this forged power of attorney, thereafter a sale deed has got executed by A2/Dhanalakshmi in favour of A1/Subbulakshmi and A1 executed a settlement deed in favour of A3/Yuba T.Reichard. For execution of all these documents, the witnesses produced address proof and identity proof, by forging documents. The concerned Sub Registrar Office was pressurised to immediately register the documents without delay using the influence of A4/Thukkaiandi, then Inspector General of Police, Vigilance and Anti Corruption, Chennai. Further, on coming to know about the rival claim made, L.W.3 was forced to cancel the agreement of sale entered with L.W.1. The agreement of sale between L.W.3 and L.W.1 was cancelled by Doc.No.3592/2010 on 15.07.2010. The name of A4 was used to influence the witnesses to execute and register documents as per the design of A1, the prime accused. Therefore on conclusion of investigation charge sheet filed in this case.

3. The learned Government Advocate(crl.side) appearing for the first respondent submitted that on receipt of the above complaint through proper channel, on 29.05.2012 a case in Cr.No.233 of 2012 U/s 419, 467, 468, 471, 447 read with 120(B) of IPC @ 417, 419, 467, 468, 471, 447 r/w 120(B) and 34 of IPC and under section 82(c) (d) of Registration Act, 1908 was registered against the accused Subbulakshmi[A-1], Tamilarasi @ Dhanalakshmi[A-2], Yuba T. Reichard [A-3] by the then Inspector of Police, Central Crime Branch, Team XV and investigated. During the course of investigation in this case, it was discovered that Dhanalakshmi [A-2], suppressing her real name Tamilarasi illegally grabbed the property by creating the above said fake documents. During the investigation, it came to light that the accused Tamilarasi had taken precautions to conceal her identity under a pseudonym Dhanalakshmi, with a view to grab the said property. Furthermore, Subbulakshmi [A-1] having unlawfully acquired the property belonging to

Chandrash M. Kambani [L.W-2] had leased the same to M/s. Renault Nissan Technology Business Centre India Private Limited in an unregistered Lease Agreement with a monthly rent to the tune of INR 1,70,000.00 (Rupees One Lakh Seventy Thousand) and an advance amount of INR 10,20,000.00 (Rupees Ten Lakhs and Twenty Thousand). The said amounts were deposited in the Thiruvanmiyur Branch of Indian Overseas Bank vide Account No. 147201000002821 and as such Subbulakshmi [A-1] is in receipt of unlawful gains with the aid of Yuba T. Reichard [A-3].

3.1 He therefore submitted that during the course of investigation it was recorded that A4 had misused his official position and coerced Tr.Chandru @ Chandrasekaran [L.W-25], a Police constable served under him who had stated in his statement that he was contacted and instructed to arrange S. Ravi [L.W-3] of Mayanoor to cancel the document made in respect of land in Plot No.297 and in his presence both had a discussion over phone in connection with the cancellation of the above document.

4. Heard, the learned counsel for the petitioner, the learned Government Advocate(crl.side) appearing for the first respondent and perused the materials available on record.

5. It is noticed that this Court passed common order quashing the impugned proceedings in respect of A3 and A4 in Crl.OP.Nos.2141 & 806 of 2018 dated 25.04.2022, and the relevant findings of the common order is extracted hereunder:

> *"6. Considering the submissions and on perusal of the materials it is seen that the petitioners herein are A3/Yuba T.Reichard and A4/Thukkaiandi. A3 after completing her studies, she got a job in USA in the year 1998. From then she is residing there. She married Robert Reichard, a foreign national in the year, 2007 and thereafter obtained U.S. Citizenship. She rarely comes to India to meet her family members. Admittedly, no witness state anything against A3 in any manner. No doubt, A1 is the mother of A3, who claims that she purchased the property from A2, from a close relative of her. Thereafter, she settles the property to her daughter-A3. The settlement was done in the absence of A3. The registered Power of Attorney of A2 in Doc.No.210/2007 was registered on 12.04.2007. A2 claims Power of Attorney was executed by L.W.2's father, registered as Doc.No.210 of 2007 in Sub Registrar Office, Trichy. Based on this power of attorney, a sale deed executed by A2 in favour of A1 in Sub Registrar Office, Neelankarai by document No.3052/2007 on 17.05.2007. Thereafter, a settlement deed was executed by A2 in favour of petitioner/A3 in Doc.No.1665/2008 dated 22.04.2008. The petitioner/A3*

thereafter executed a power of attorney in favour of her sister T.Yamini on 22.07.2010, which was revoked on 24.01.2011 and thereafter she executed a power of attorney in Doc.No.141/2011 dated 21.03.2011 in favour of her mother-A1. Thus, A3 appears to be only a name lender and nothing more. The property was developed in the year, 2008 and after completion, in the year 2010, it was occupied by Renault-Nissan Technology and Business Centre India Private Limited and they have been crediting lease amount for the property, which is confirmed by L.W.36-Binu Nair and the amount has been credited to the account of A1, which is confirmed by L.W.30-Suresh, Senior Manager, Indian Bank, Valmeeki Nagar Branch, Chennai. The construction in the property started in the year 2008, thereafter tenancy and the lease. The application for EB permission for building, all dealt by A1. The civil suits are prosecuted by A1 though in the name of A3. Other than A1 using the daughter-s name A3, A3 has got nothing to do with the property in any manner. From the year 1998, she is not in India and rarely visits India. Admittedly, during the alleged transactions, she was only in her teens and it was only her mother (A1), who is the fulcrum and force behind the entire transaction and no witnesses have stated anything against the petitioner/A3, who is roped in as though she had abetted the other accused and she benefited from the property as stated above. The petitioner/A3 not benefited. The lease amount credited to the account of A1. Further, her sister Yamini, who *faced a case on similar lines for the adjacent property Plot No.277 and a case in Crime No.315/2012 was registered against her sister and her father both were prosecuted in C.C.No.113/2019. Earlier, this Court on 29.09.2020 quashed the case against them in Crl.O.P.Nos.13791 and 2880 of 2020, almost on the similar lines. As regards the petitioner/A4 he is the father of A3 and husband of A1. Other than marital relationship with A1, he has got nothing to do with the case of A1, who seems to have been active on her own from the year 2007 with her brother-s mother-in-law (A2), Power of attorney created in favour of A2 as though it was executed by L.W.2's father, document registered in Doc.No.210/2007 in Sub Registrar Office, Trichy. Thereafter, sale deed executed in Doc.No.3052/2007 dated 17.05.2007 and thereafter she developed the property by putting up construction and she had also executed a settlement deed in favour of her daughter A3 under Doc.No.1665/2008 dated 22.04.2008 thereafter in the year 2010 it was completed, from the year 2011, the property was let out on lease to Excavate support team, who in turn had given to their client M/s. Renault Nissan Technology Business Centre India Private Limited for monthly lease amount. In the meanwhile, L.W.3 along with L.W.6 and L.W.7 and one John approached L.W.2 obtained power of attorney in Doc.No.1314/2007 before the Sub Registrar Office, Mumbai-1 and one of the condition was that as per clause 11, the sale to be concluded within one year. Thereafter it cannot be* *completed and Power of Attorney cancelled and sent back the advance amount by cheque, which was encashed by L.W.3. From the statement of the witnesses L.W.4 to L.W.7, it is seen that they teamed up together to make profit from the sale of the land of L.W.2, admittedly L.W.2 is well placed in Mumbai, busy with his work and he is not aware about the developments and appreciation of the property in Sholinganallur. Taking advantage of the same, these people tried to exploit the situation. On the other hand L.W.7/Annadurai earlier approached A1 for a settlement, which was not agreeable. Thereafter only the episode of L.W.3 obtaining Power of Attorney from L.W.2 thereafter sale agreement with L.W.1/de-facto complainant commenced. Hence, the complaint itself initiated with a motive. Later L.W.2 on coming to know about the real facts and situation and about the appreciation of the property, he is now pursuing the complaint. L.W.2 coming to know the deceit played by L.W.3, L.W.6 and L.W.7, sale deed executed by L.W.3 in favour of L.W.1, cancelled the Power of Attorney given in favour of L.W.3. He submitted all the necessary required documents including the sale deed document of the year 1967, death certificate of his mother of the year 1980, father of the year 1997, legal heir certificate, certified copy of the power of attorney executed in favour of L.W.2, thereafter revocation of the same, paying back the initial amount received from L.W.2 by way of cheque and the encashment particulars. After the revocation of power of* *attorney by L.W.2, L.W.3 has nothing to do with the property. Earlier, L.W.3 cancelled sale agreement with L.W.1 on 15.07.2010 by Doc.No.3592/10, L.W.1 has no locus. Be that as it may, now L.W.2 is pursuing the case and he is a witness giving narration of the case and also submitted documents. From the statement of the witnesses and the documents produced, there is no incriminating material found against the petitioner/A4 except for L.W.25, L.W.27 and L.W.28. L.W.25 is said to have instructed by A4 to approach L.W.3 hand over the phone and forced him to come to Chennai to cancel the sale deed. On the contrary L.W.3 does not state anything as regards the petitioner. Hence, the statement of L.W.25 is of no significance. LW.16-Sub Registrar, South Chennai Registration Department, apart from stating that whenever high officials call him for facilitation he used to inform the concern Sub Registrar Office to ensure that the documents are registered without delay. Likewise on 17.05.2007, L.W.16 was called, from the office of the petitioner/A4 requested L.W.16 to inform L.W.27 about the registration of the document. L.W.27 on that day registered the document in Doc.No.3052/2007. Though L.W.27 states that he got promoted and posted in the Head Office of the Registration, he does not state anything about A1 calling him on 17.05.2007, later in the year 2010 A1 said to have approached L.W.27, questioned how subsequent sale agreement executed by L.W.3 in favour of L.W.1 came to be registered and he was forced to cancel the same and thereafter he was asked to meet* *the petitioner/A4. L.W.27, informed A4, cancellation cannot be done by the registration authority on their own, any sale agreement can be set aside only through Court. This position is well known. L.W.27 already got promoted and transferred to the Head office and he was no more in Sub Registrar Office, Neelankarai. At that time, no prudent man will request or force such action. Likewise other witness is L.W.28. L.W.28 is the Sub Registrar, Neelankarai from 23.09.2009. He states that on 15.07.2010 L.W.3 appeared, filed a cancellation deed document No.3592/2010. At that time, a phone call from the office of the petitioner is said to have been made to L.W.28 for registration and nothing more. Though on two occasions, office of petitioner/A4 is said to have called the Sub Registrar, Neelankarai. There is no other materials. The allegations are far-fetched. Thus apart from these statements, there is nothing against the petitioner. It is known fact that the petitioner as Superintendent of Police in C.B.C.I.D., Chennai. During the period from 1997 he played vital and pivotal role in registration of the cases, monitoring the investigation and monitoring prosecution against former Chief Minister and the Ministers, and closely following the progress of trial in the three Special Courts exclusively formed at that time. Later there was change of Power and scenario. The petitioner/A4 was later transferred frequently and posted to innocuous posts which is well known. Admittedly, the petitioner-s name does not find place in complaint and he had been later added. There is considerable* *amount of delay in the registration of F.I.R. and thereafter filing of the final report, which creates suspicion, doubt and fortifies that he is targeted. In any event taking the entire materials available in the charge sheet, there is no case made against both the petitioners. Further, this Court on a similar situation almost on the identical facts, in Crl.O.P.Nos.13791 and 2880 of 2020 quashed the proceedings against A4 and his yet another daughter Yamini, similarly placed.*

9. Thus, looking the case from any angle, this Court finds no reason or justification to continue the proceedings in C.C.No.1173 of 2017 against the petitioners. Further, continuation would only amount to abuse of process of Law. Hence, the proceedings against the petitioners/A3 and A4 alone in C.C.No.1173 of 2017, pending before the learned Judicial Magistrate, Alandur is hereby quashed."

6. This Court finds that the petitioner, who is arrayed as A1, is standing in the same footing of A3 and A4. Therefore, the impugned proceedings is liable to be quashed in respect of the petitioner. Accordingly, this Criminal Original Petition is allowed and the proceedings in C.C.No.1173 of 2017 on the file of the learned Judicial Magistrate No.1, Alandur is quashed in respect of the petitioner. Consequently, connected miscellaneous petitions are closed.

25.04.2025

Internet : Yes / No
Index : Yes / No
lok

G.K.ILANTHIRAIYAN, J.
lok

To

1.The Judicial Magistrate No.1,
Alandur
2.Inspector of Police,
Central Crime Branch(CCB),
Team XVI Egmore, Chennai 600 008
3.The Public Prosecutor,
High Court of Madras

CRL.O.P.No.9601 of 2025 and
Crl.MP.Nos.6356 & 6357 of 2025

25.04.2025