



Crl.OP.No.20729 of 2023

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.03.2025

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

Crl.O.P.No.20729 of 2023
and
CRL.MP.Nos.14162 & 14164 of 2023

M.Gopal

... Petitioner

Vs.

1.State by the Inspector of Police
Maharaja Kadai Police Station,
Krishnagiri.

2. The Joint Sub-Registrar-I
Krishnagiri.

3. Baby

... Respondents

PRAYER: Criminal Original Petition is filed under Section 482 of the Code of Criminal Procedure, to call for the records in CC.No.362 of 2021 on the file of the learned Judicial Magistrate – II, Krishnagiri and quash the same.

For Petitioner : M/s.S.Sadasharam



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For Respondents : Mrs.J.R.Archana for R1 & R2
Government Advocate (CrI.Side)

Mr.S.Arokia Mani Raj for R3

ORDER

This petition has been filed to quash the proceedings in CC.No.362 of 2021 on the file of the learned Judicial Magistrate – II, Krishnagiri.

2. The case of the prosecution is that the property comprised in Survey No.263/2A and Patta No.1036 to an extent of 1 acre 6 cents situated at Kattinayanapalli Village, Krishnagiri Taluk and Krishnagiri District owned by one Muniraj. The said Muniraj had sold out the said property in favour of the third respondent by registered sale deed vide Document No.294 of 1986. After a period of twenty years, the very same property was sold out in favour of the petitioner by the said Muniraj vide registered sale deed dated 17.10.2016 bearing Document No.2861 of 2016. Therefore, the third respondent has lodged a complaint before the District Registrar, Krishnagiri.

3. The District Registrar, Krishnagiri by an order dated 25.05.2018



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declared the sale deed executed in favour of the petitioner as fraudulent one and double document in respect of the subject property. Further, directed the second respondent i.e., The Joint Sub-Registrar-1, Krishnagiri, to lodge complaint before the concerned jurisdictional police as per Section 68(2) of the Registration Act.

4. Aggrieved by the same, the petitioner has preferred an appeal before the Deputy Inspector General of Registration and same was also dismissed by an order dated 22.07.2021.

5. On receipt of the complaint from the second respondent, the first respondent has registered an FIR in Cr.No.394 of 2018 for the offence punishable under Sections 420 and 465 of IPC. After completion of investigation, the first respondent has filed a final report before the learned Judicial Magistrate-II, Krishnagiri and the same has been taken cognizance in C.C.No.362 of 2021, which is pending for trial.

6. The learned counsel appearing for the petitioner submits that the petitioner is the bonafide purchaser of the subject property from one Muniraj. He has purchased the property after obtaining legal opinion and also on verification of all the documents. That apart, now the third respondent has filed a civil suit in O.S.No.41/2021 on the file of the



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District Munsif Court, Krishnagiri for declaring the sale deed executed in favour of the petitioner as null and void and it is pending. Therefore, the entire proceedings initiated as against the petitioner cannot be proceeded further and no offence is made out as against the petitioner.

7. The learned counsel appearing for the third respondent submits that the third respondent had purchased the subject property in the year 1986 itself vide registered sale deed dated 08.07.1986. The third respondent's vendor's mother issued patta for assignment on condition that the petitioner's vendor shall not sell the property within a period of ten years from the date of assignment condition.

8. The learned counsel for the third respondent further submits that even after ten years it can be sold out only to persons belong to Scheduled Community. The third respondent being the person who belongs to Scheduled Caste Community, he has purchased the same for valid consideration from the said Muniraj. However, without even verifying the encumbrance certificate, the petitioner herein had fabricated the sale deed as if the said Muniraj also sold out the property in favour of the petitioner and trying to interfere with the peaceful possession and enjoyment of the subject property. Thereafter, the third respondent came



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to understand that too on verification of encumbrance certificate, the very same subject property was once again sold out in favour of the petitioner. Therefore, he lodged a complaint before the District Registrar and the same was allowed and thereafter, the second respondent has lodged a complaint. The order passed by the District Registrar was also confirmed by the Deputy Inspector General of Registration.

9. Aggrieved by the same, the petitioner has preferred the writ petition before this Court in W.P.No.22118 of 2023. Since the provision under Section 77A of the Registration Amendment Act has been now declared as unconstitutional by this Court. This Court recorded that in pursuant to the provision under Section 77A of the Registration Amendment Act, the District Registrar passed an order based on the Circular No.67 of 2011 of the I.G of Registration which had been withdrawn by the Government. Therefore, the order passed by the District Registrar, Salem as well as the Deputy Inspector General of Police cannot be a basis for claiming any right by either of the parties. However, writ petition was dismissed, since the third respondent has already instituted a suit for declaration in respect of the very same property, which is pending. Therefore, there are specific allegations as



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against the petitioner to constitute the offence under Sections 420 and 465 of IPC.

10. The learned Government Advocate (Crl.Side) reiterated the prosecution case and submitted that the sale deed executed in favour of the petitioner as fraudulent one and double document in respect of the subject property.

11. Heard the learned Counsel appearing on either side and perused the materials placed on record.

12. It is seen that on the complaint lodged by the second respondent, the first respondent registered a case in Crime No.394 of 2018 for the offences under Sections 420 and 465 of IPC. After completion of investigation, the first respondent filed final report and the same has been taken cognizance in C.C.No.362 of 2021 by the trial Court and it is pending. To quash the said criminal proceeding, the petitioner filed the present petition.

13. The Hon'ble Supreme Court of India in the judgment reported in **2019 (4) SCC 351** in the case of **Devendra Prasad Singh Vs. State of Bihar & Anr., (Crl.A.No.579 of 2019 dated 02.04.2019)** while dealing with the petition to quash the entire criminal proceedings held



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that the High Courts have no jurisdiction to appreciate the statement of the witnesses and record a finding that there were inconsistencies in their statements and therefore, there was no *prima facie* case made out as against the accused. It could be done only by the trial Court while deciding the issues on the merits or/and by the Appellate Court while deciding the appeal arising out of the final order that the charge sheet has been laid on the basis of the inconsistency statement under Section 161 of Cr.P.C.

14. Further, the Hon'ble Supreme Court of India in the judgment reported in **2019 (10) SCC 686** in the case of ***Central Bureau of Investigation Vs. Arvind Khanna, (Crl.A.No.1572 of 2019*** dated 17.10.2019) held that the High Courts cannot record the findings on the disputed facts. The defence of the accused is to be tested after appreciation of evidence by the trial Court during the trial. Therefore, this Court has no power to consider the disputed facts under Section 482 of Cr.P.C./528 of the Bharatiya Nagarik Suraksha Sanhita, 2023.(any one)

15. The Hon'ble Supreme Court of India in another judgment dated **02.12.2019** passed in ***Crl.A.No.1817 of 2019*** in the case of ***M.Jayanthi Vs. K.R.Meenakshi & anr***, held that while considering the



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petition for quashment of complaint or charge sheet, the Court should not embark upon an enquiry into the validity of the evidence available. All that the Court should see is as to whether there are allegations in the complaint which form the basis for the ingredients that constitute certain offences complained of. Further, the Court can also see whether the preconditions requisite for taking cognizance have been complied with or not and whether the allegations contained in the complaint, even if accepted in entirety, would not constitute the offence alleged. Whether the accused will be able to prove the allegations in a manner known to law would arise only at a later stage i.e., during trial.

16. Further this Court cannot observe at this stage whether the initiation of criminal proceeding itself is malicious or not. The same is required to be considered at the conclusion of the trial. Therefore, the ground raised by the petitioner to quash the final report/charge sheet cannot be entertained to quash the entire proceedings.

17. In view of the above discussion, this Court is not inclined to quash the proceedings in C.C.No.362 of 2021 on the file of the learned



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Judicial Magistrate-II, Krishnagiri. The petitioner is at liberty to raise all the grounds before the trial Court. Considering the age of the petitioner, the personal appearance of the petitioner is dispensed with and he shall be represented by a counsel after filing appropriate application. However, the petitioner shall remain present before the Court at the time of furnishing of copies, framing charges, questioning under Section 351 of BNSS and at the time of passing judgment. The trial Court is directed to complete the trial within a period of six months from the date of receipt of copy of this Order.

18. Accordingly, the Criminal Original Petition stands dismissed. Consequently, connected miscellaneous petitions are also closed.

17.03.2025

Vv

To

1. The Judicial Magistrate – II,
Krishnagiri
2. The Inspector of Police
Maharaja Kadai Police Station,
Krishnagiri.

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3. The Joint Sub-Registrar-I
Krishnagiri.

4. The Public Prosecutor,
Madras High Court,
Chennai.

G.K.ILANTHIRAIYAN, J.

Vv

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and**



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