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Crl.R.C.No.1888 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 23.04.2025

Coram:

THE HONOURABLE MR.JUSTICE P.VELMURUGAN

Crl.R.C.No.1888 of 2024

and

Crl.M.P.No.15475 of 2024

B.Sathyanarayanan, S/o Babu Janarthanan

.. Petitioner

Vs.

1. State, The Inspector of Police,
Central Crime Branch,
Land Grabbing Special Cell-I,
Vepery, Chennai-600 007.
(Ref.Crime No.624 of 2012,
dated 24.12.2012 under Sections
420, 467, 468, 471, 506 (Part-2) and 120-B IPC
2. M/s.V.G.N.Projects Estates Pvt. Ltd.,
Duly rep. by Deputy General Manager,
Mr.A.Rangappan, S/o Ayyappan,
No.17, Ayyovoo Colony, Aminjikarai,
Chennai-600 029.
(Second respondent impleaded as
per order dated 05.12.2024 in Crl.M.P.No.17349 of 2024
in Crl.R.C.No.1888 of 2024)

.. Respondents

Criminal Revision Case filed under Section 438 read with Section 442 B.N.S.S./Section 397 read with Section 401 Cr.P.C, praying to call for the records and set aside the order dated 19.09.2024 in Crl.M.P.No.46605 of 2024 in C.C.No.5083 of 2023 on the file of the Metropolitan Magistrate for Exclusive trial of CCB and CB.CID cases, Egmore, Chennai and consequently, discharge the

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petitioner who is arrayed as A2 in C.C.No.5083 of 2023 on the file of the Metropolitan Magistrate for Exclusive trial of CCB and CB.CID Cases, Egmore, Chennai.

For petitioner : Mr.B.A.Sujay Prasanna and Mr.A.Ashok Kumar

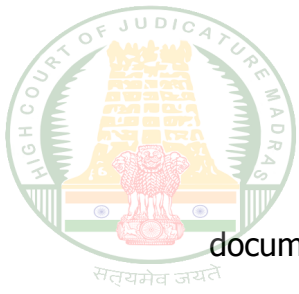
For respondents: Mr.S.Sugendran, Addl.P.P. for R-1

Mr.A.Nagarajan for R-2

ORDER

The revision petitioner/A2 has filed a petition before the trial Court invoking Section 239 Cr.P.C. seeking to discharge his from the case. The said petition was dismissed by the trial Court, against which, the present revision petition is filed by A2.

2. Learned counsel for the revision petitioner/A2 submitted that the allegation against the revision petitioner was that he made fraudulent representation to the de-facto complainant has executed an agreement for sale, dated 08.08.2008 in favour of M/s.Royaale Chennai Realtors with regard to the subject property, through General Power of Attorney, dated 23.10.2009 in favour of Mr.Kumaravel Pandian. Mrs.Vanjulavalli had acquired the subject property subsequent to the order of this Court while probating the Will. However, the above said allegations are ground-less. Since the existence of the above



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document formed part of the list of documents submitted before this Court along with the charge-sheet under Section 173 Cr.P.C. The relevant documents are agreement of sale, dated 08.08.2008 executed by the said Vanjulavalli in favour of one Leelavathi and M/s.Royale Chennai Realtors bearing document No.3416 of 2009 on the file of the Sub-Registrar, Velacherry. The General Power of Attorney dated 23.10.2009 was executed by Mrs.Vanjulavalli. The order of this Court in O.P.No.695 of 2008, dated 06.04.2009 probating the Will in respect of the subject property in favour of the said Vanjulavalli.

3. According to the learned counsel for the revision petitioner/A2, the above said documents establish the fact that the representation made by the revision petitioner is true. Therefore, the revision petitioner made false representation to the de-facto complainant, which is ground-less and contrary to the value of the materials on the side of the prosecution. Hence, the revision petitioner paid Rs.10 lakhs as advance through the Bank transaction through the said Vanjulavalli and others for the subject property even before entering into the contract with the de-facto complainant. The investigating agency has suppressed the material facts and conducted biased investigation and laid false complaint. Therefore, when the revision petitioner filed an application invoking Section 239 Cr.P.C. before the trial Court to discharge the revision petitioner

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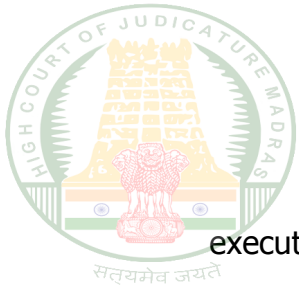


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from the case, but the learned Magistrate failed to consider the facts and dismissed the petition. The said factum of law is laid down by the Honourable Supreme Court in various decisions holding that the Magistrate has power to order further investigation to collect the Bank Statement of the petitioner, even after issuance of summons, if the facts and circumstances of the case so warranted for fair investigation under Article 21 of the Constitution of India.

4. Further, according to the learned counsel for the A2, the A2 had not committed any offence, as there are no incriminating materials against the revision petitioner/A2 to frame the so-called charges. He also stated that the prosecution has given criminal colour to the case, as the present case is of civil nature. Thus, he prayed for discharge of the petitioner/A2 from the case and that the impugned order may be set aside.

5. The learned counsel for the de-facto complainant stated that the revision petitioner/A2, along with his business partner, has involved in M/s.Royale Chennai Realtors. The allegation against the revision petitioner/A2 is that the said Vanjulavalli, in collusion with the others, prepared a forged Will, dated 25.07.1982 in their favour purportedly for 4.72 acres of land at Bhuvaneswari Nagar, Velacherry, Chennai in S.No.317/1 Part. The said Will was



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executed by the original owner, namely Mr.Muthukrishna Iyer and subsequently, the said Vanjulavalli and her associates, obtained order from the Judicial Magistrate-II, Trichy to register the fake document like Death Certificate and the said Vanjulavalli prepared another fake Death Certificate in respect of one Sanjana, who was purported to be the wife of the said Muthukrishna Iyer. The forged documents thereafter were presented to the Tahsildar of Srirangam, leading to issuance of a Legal Heirship Certificate in favour of the said Vanjulavalli and falsely claiming to be the sole legal heirs of Muthukrishna Iyer. She subsequently executed two sale deeds, in favour of one S.G.Sekar and Ramkumar. Later it was cancelled through compromise before the City Civil Court, Chennai. Thereafter, M/s.Vanjulavalli executed the General Power of Attorney to one Kumaravel and later, she cancelled it on 27.02.2008. Despite cancellation, the said Kumaravel obtained another General Power of Attorney from Vanjulavalli on 03.03.2009. The said Kumaravel subsequently executed a sale agreement for the extent of property 4 acres 72 cents. Therefore, there are specific allegations against the revision petitioner/A2 also. The statements of the witnesses recorded by the prosecution, which also clearly reveals that there is prima-facie allegations against the revision petitioner/A2 also and there was also overt-act against the revision petitioner/A2. Therefore, according to the learned counsel appearing for the de-facto complainant submitted that the trial Court

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considered the materials available on record and dismissed the discharge petition, as there are no grounds to grant the relief as prayed for before the trial Court.

6. Heard both sides and perused the materials available on record.

7. The crux of the case of the prosecution is as follows:

(a) As per the charge-sheet, the disputed property (subject property) is a vacant land, measuring 3 acres and 33 cents, situated at S.No.317/1 at Velacherry Village, Chennai.

(b) In spite of knowing the fact that the subject property does not belong to the said Vanjulavalli (A3), Kumaravel Pandian (A1) and Mr.Sathyanarayanan (A2) being the revision petitioner.

(c) The partners in M/s.Royaale Chennai Realtors made a fraudulent representation to the de-facto complainant that Mrs.Vanjulavalli, had executed agreement of sale, dated 08.08.2008 in favour of M/s.Royaale Chennai Realtors and general Power of Attorney dated 23.10.2009 in favour of Mr.Kumaravel Pandian, qua, the subject property and that Mrs.Vanjulavalli had acquired the property in question based on the order of this Court granting probate of the Will.

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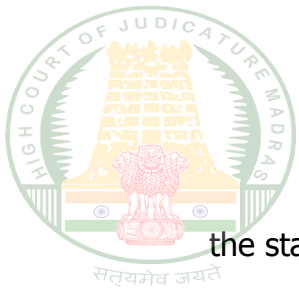
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(d) Based on the above fraudulent representation, V.G.N.Developers Private Limited, entered into agreement for sale, dated 25.10.2010, qua, the subject property, with the accused persons and the sale consideration was fixed at Rs.45 crores and a portion of the same is Rs.15 crores, was paid as advance to the accused persons by issuing cheques/Demand Drafts.

(e) Hence, according to the prosecution, the accused persons have committed the offences under Sections 420, 467, 468, 471, 506 (Part-2) and 120-B IPC, and thus, they have illegally enriched themselves.

8. It is seen from the records that the charge-sheet was filed by the investigating office under Section 173 Cr.P.C. and the statement of witnesses was recorded under Section 161 Cr.P.C. There are specific allegations against the revision petitioner/A2 also and thus, there are prima-facie materials against the revision petitioner to implicate him as accused to frame charges.

9. It is settled proposition of law that at the time of deciding the discharge petition filed under Section 239 Cr.P.C., the Court has to see the materials produced by the prosecution and the trial Court need not adopt roving enquiry on the materials produced by the prosecution, and the Court has to accept the documents produced by the prosecution as true, at the first inception itself in



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the stage of framing of charges and the Court cannot look into the defence taken by the accused or the documents produced by the accused. The probative value of the documents cannot be decided at this stage and the Court has to only see as to whether there are prima-facie materials available against the revision petitioner to proceed the case further against A2 by framing charges.

10. In this case, on a reading of the materials and taking note of the specific allegations against the revision petitioner and the prima-facie materials from the statement of the witnesses recorded from the list of witness under Section 161 Cr.P.C., and therefore, this Court does not find any reason to interfere with the impugned order passed by the trial Court.

11. Further, the decisions/citations relied on by the learned counsel appearing for the parties, are distinguishable on the facts of the present case and hence, the same are not applicable to the case on hand.

12. The trial shall be proceeded forthwith, in accordance with law.

13. For the reasons stated above, this revision petition is dismissed. Consequently, the miscellaneous petition is closed.

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1. The Inspector of Police,
Central Crime Branch,
Land Grabbing Special Cell-I,
Vepery, Chennai-600 007.
(Ref.Crime No.624 of 2012)
2. The Section Officer/Criminal Section, Records Wing, High Court, Madras.
3. The Public Prosecutor, High Court, Madras.
4. The Metropolitan Magistrate for exclusive trial of CCB and CB.CID cases,
Egmore, Chennai.



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P.VELMURUGAN, J

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