

C.M.A(MD)No.1325 of 2013

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Dated : 15.10.2025

CORAM:

THE HONOURABLE MS.JUSTICE R.POORNIMA

C.M.A.(MD)No.1325 of 2013

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... Appellant

Vs.

The State of Tamilnadu rep. by

The Inspector of Police,

Crime Branch, C.B.C.I.D.,

Thiruvallor District.

... Respondent

Prayer: Civil Miscellaneous Appeal is filed under Section 11 of the Criminal Law Amendment Ordinance, 1944, against the order passed by the Sessions Judge, Kanyakumari at Nagercoil, dismissing the application in Cr.M.P.No.3705 of 2009 in Criminal Original Petition No.1 of 2009, dated 20.01.2011.

For Appellant : Mr.Antony Raja Durai
for M/s.Lajapathi Roy & Associates

For Respondent : Mr.S.Ravi,
Additional Public Prosecutor



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JUDGMENT

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This Civil Miscellaneous Appeal has been filed against the order passed in CrI.M.P.No.3705 of 2009 in CrI.O.P.No.1 of 2009 on the file of Sessions Judge, Kanyakumari at Nagerkoil, dated 20.01.2011.

2. The brief facts of the case of the petitioner is that the petition filed by the petitioner under Section 4(4) of the Criminal law Amendment Ordinance 1944 praying that the objection may be considered and on that basis the attachment order passed may be released or appropriate orders may be passed.

3. The petitioner and her husband purchased 48 cents and 600 Square links of land and the coconut trees standing therein in Re.S.No.72/1 and also 3 cents of land in R.S.No.72/5B 4A of Esanthimangalam Village for valid sale consideration from one Barnabas, Son of Siluvai Adimai on 10.10.2008 as per the sale deed No.1900/2008 on the file Bhoothapandy Sub Registrar Office. The vendor Barnabas purchased the property on 21.11.1983 and he is in possession and enjoyment of the property; The petitioner and her husband are bonafide purchasers and is in possession and enjoyment of the property subsequent



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to sale and their names were duly mutated in the revenue records. They

had also obtained patta upon payment of revenue taxes. The petitioner

further stated that her husband has been employed in Saudi Arabia for

past 20 years and she got information on 16.09.2009 with regard to the

notice of attachment, the same which it was found pasted on the wall of

the property, subsequently she gained knowledge about the attachment

proceedings in CrI.O.P. No.1 of 2009 which she contends are erroneous

and not based upon proper materials and is contrary to law. The

petitioner further submitted that there are no records to substantiate that

the said vendor of the assets purchased the property by using funds

derived from the fraudulent and cheating acts of 'Bishop Anandaraj' free

house scheme which is presently under the investigation of the Crime

Branch CID, Tiruvallur. The petitioner further stated that the properties

in question were purchased out of his own legitimate money and

therefore, the attachment order is liable to be released.

4. The same was disputed by the respondent, the State of Tamil Nadu, represented by the Inspector of Police, C.B.C.I.D, Tiruvallur by stating that 22 cases were filed against said Barnabas and also against his son-in-law Bishop Anandaraj. He also stated that the properties were



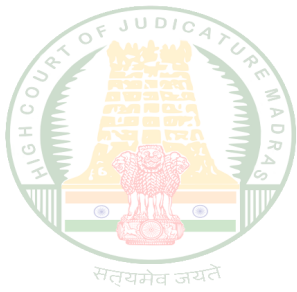
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purchased from the money collected from the poor people and were attached the property as per the order in G.O.(Ms)No.47 of Home (Police XIV) Department dated 19.01.2009. It was also contended that the Court has no jurisdiction to entertain this petition.

5. On the side of the petitioner P.W.1 was examined and Exs.P1 to P12 were marked. No oral and documentary evidences were adduced on the side of the respondent.

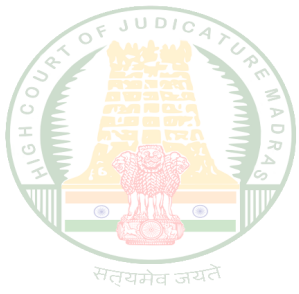
6. After hearing the parties, the trial court taking into consideration of the fact that several criminal complaints were filed against the said Barnabas, erstwhile vendor, it was observed that the properties were attached as per the Government Order. It was further held that the properties were purchased only after the criminal cases and prior to the passing of the Government Order. The Court has also held that the question has to whether the vendor of the petitioner sold the properties to them to evade the clutches of law is a matter to be decided only during the trial. Accordingly dismissed the petition by holding that there is no merits in the contention raised by the petitioner, against which the present Civil Miscellaneous Appeal is filed by the petitioner / appellant.



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7. The learned Additional Public Prosecutor appearing for the respondent filed a detailed counter by stating that there are several complaints had been filed against the vendor and his son-in-law of Bishop Anandaraj. He further stated that said son-in-law along with the accused criminally conspired to cheat the public under the guise of awarding contracts worth of crores of rupees purportedly for construction of three houses and three hospitals to the poor with the alleged huge foreign funds available to them. In pursuance of the said conspiracy, they had formed few trustees in the name of Human Resources and Development agencies and during the year 2003, they gave wide publicity by stating that they intended to construct buildings to downtrodden people and invited contracts to participate in the said project by executing agreement. They collected huge money in the name of earnest money deposit, commission from the contractors, agents and sub agents and thereby swindled huge sums from genuine contractors and misappropriated money for personal gain. The present petitioner who had purchased the property only after institution of criminal cases against the accused.



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8. The learned Additional Public Prosecutor appearing for

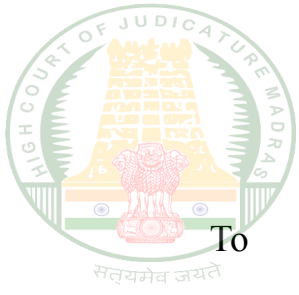
the respondent further submitted that the criminal trial is still itself pending and only at the course of the trial, will be revealed whether the properties sold to the petitioner was purchased from out of the cheating money or from his own legitimate money. At this stage, the reasons from source of purchase cannot be conclusively determined.

9. Admittedly a criminal case filed against the petitioner's vendor is pending and the properties have been attached pursuant to Government order. The trial Court has rightly held that the petitioner can establish his claim only during the course of trial of the criminal case and not before obtaining an order of raising attachment. There is no illegality in the order passed by the trial Court, and I find no reason to interfere with the order of the trial Court.

10. Accordingly, this Civil Miscellaneous Appeal is dismissed. No costs.

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Index : Yes / No
NCC : Yes / No
RM



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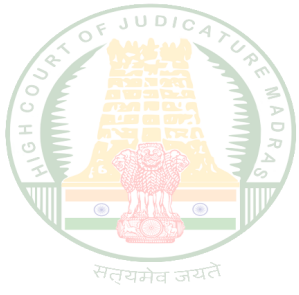
To

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1.The Sessions Judge,
Kanyakumari Division at Nagercoil,

Copy to

1.The Section Officer,
ER/VR Section,
Madurai Bench of Madras High Court,
Madurai.



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R.POORNIMA, J.

RM

Judgment in
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