

Criminal Case No.419 of 2018 pending on the file of the Judicial Magistrate No.II, Karur, and to quash the proceedings thereof.

4. Respondent No.2-complainant lodged a complaint to the Superintendent of Police, Karur District, alleging *inter alia* that his father, Ayyasamy Nadar, died on 19th September, 1988. His elder brother, Balakrishnan, had died about one year prior thereto. It was alleged that Ayyasamy Nadar had executed a partition deed dated 2nd December, 1959, under which the 'A' Schedule property was allotted to respondent No.2-complainant and, after his death, the same was to devolve upon his legal heirs. It was further alleged that when steps were initiated for transfer of *patta* in respect of land situated in Survey No. 233 of L.N.S. Village, Karur, respondent No.2-complainant's mother raised objections before the Revenue Divisional Officer, Karur.

5. During the course of inquiry in the aforesaid objection proceedings, respondent No.2-complainant was apprised of a Will purportedly executed by his father on 12th September, 1988. However, according to respondent No.2-complainant, no such Will could have been executed on that date, since his father had

been in a comatose condition for about one month prior to his death. It was further alleged that around six years prior to the filing of the complaint, A-2 to A-6 had approached respondent No.2-complainant and his family with an offer to purchase the property at a very low price, which was outrightly rejected. Thereafter, A-1 Raja @ Rajasekaran, being the brother of respondent No.2-complainant, allegedly joined hands with A-2 to A-6 and the attesting witnesses to create the fabricated Will dated 12th September, 1988, and sold the property comprised in Survey No.217, L.N.S. Village, measuring about 1.31 acres, to A-2 to A-6 by sale deeds dated 18th December, 1998.

6. The said complaint was forwarded to Karur Police Station, where FIR/Crime No.994 of 2004 came to be registered on 12th July, 2004 for the offences punishable under Sections 465, 468, 420 and 120-B of the Indian Penal Code, 1860³, and investigation was commenced.

7. After conclusion of investigation, the police proceeded to file a report under Section 173(2) CrPC

³ For short, 'IPC'.

before the Court concerned, concluding that the accused had committed offences punishable under Sections 467, 468, 471, and 420 IPC read with Section 120-B IPC. The case was taken on file as C.C. No.419 of 2018 by the learned Judicial Magistrate No.II, Karur.

8. The Investigating Officer concluded in the final report that A-1 to A-9, in pursuance of a criminal conspiracy, created the forged Will dated 12th September, 1988, and used the same as a genuine document for executing the sale deeds in favour of A-2 to A-6. A-7 was an Advocate practising in Karur, whereas A-8 and A-9 were stated to be the clients of A-7. The conspiracy was allegedly hatched in the office of A-7, where the forged Will was prepared. It was further alleged that, on the directions of A-7, A-8 and A-9 attested the said forged Will.

9. A-3 and A-6 approached the High Court by filing separate petitions under Section 482 CrPC seeking quashing of the proceedings pending before the trial Court. They claimed to be *bona fide* purchasers for consideration. Their case was that before entering into the registered transaction for purchase of the lands in question, they had verified the possession

and title of A-1 and thereafter purchased the property. A-6, i.e., the appellant herein, specifically claimed that he was about 25 years of age in the year 1998, when the sale deed was executed; that he had been studying in Australia, and that he had no involvement or knowledge about the alleged forgery in the Will.

10. The High Court held that the issues raised in the petition involved disputed questions of fact and that the extreme step of quashing the criminal proceedings was not warranted in the facts and circumstances of the case. Accordingly, the quashing petition filed under Section 482 CrPC came to be dismissed by the High Court *vide* final order dated 11th August, 2022, which is the subject matter of challenge in the instant appeal by special leave.

Submissions on behalf of the appellant

11. Learned senior counsel, Shri Arvind Varma, appearing for the appellant, submitted that the entire prosecution case, *qua* the appellant, rests on assumptions and conjectures and not on any legally admissible material. It was urged that the appellant was neither a party to the agreement to sale dated 13th July, 1995, nor is there any material on record

to show his role in the alleged fabrication of the Will dated 12th September, 1988. The appellant was only about 14-15 years of age when the disputed Will was executed in 1988, and even at the time of execution of the sale deed dated 18th December, 1998, he was a young student who had been studying in Australia. Thus, there is no material to establish any meeting of minds between the buyers for consideration including appellant and A-1 Raja @ Rajasekaran so as to attract the charge of criminal conspiracy.

12. It was further contended that, even if the prosecution case is accepted at its highest, the only beneficiary of the alleged forged Will was A-1 Raja @ Rajasekaran, who is no more. The purchasers, including the appellant, exercised due diligence and had entered into the registered transactions for valid consideration only after verifying the title and possession of A-1 over the land in question. There is no material in the chargesheet to connect the appellant with the preparation of the Will or the use thereof knowing it to be forged and he cannot be made to face a criminal trial merely because he was one of the purchasers of the land sold by the legatee A1 by a registered sale deed.

13. Learned senior counsel lastly submitted that the chargesheet is substantially founded on the opinion of the handwriting expert, which was based on comparison with a Xerox copy of the disputed Will and not with the original document. It was urged that otherwise also, the handwriting expert's opinion is an inherently weak piece of evidence and cannot, without independent corroboration, form the sole basis of a criminal prosecution. As the comparison itself was not done with the original document, no value can be attached to the expert report. The dispute, at best, is civil in nature concerning title and alienation of immovable property; no suit for cancellation of the sale deed dated 18th December, 1998 was filed by respondent No.2-complainant, and the criminal complaint was lodged after an inordinate delay. Continuation of the proceedings, therefore, would amount to abuse of the process of Court.

14. On these grounds, the appellant implored the Court to set aside the impugned judgment and quash the criminal proceedings sought to be taken against the appellant in the Court below.

Submissions on behalf of the respondents

15. *Per contra*, learned Sr. AAG, Shri V. Krishnamurthy appearing for the State and Mr. A. Lakshminarayanan representing respondent No.2-complainant opposed the contentions raised on behalf of the appellant and submitted that the High Court rightly refused to quash the criminal proceedings at the threshold. It was urged that the complaint, the material collected during investigation and the final report contain credible evidence disclosing necessary ingredients of offences of forgery, cheating, use of forged documents and criminal conspiracy. The allegation is not merely that the Will dated 12th September, 1988 was forged, but that the said Will was deliberately and knowingly used as the foundation for alienating valuable property belonging to Ayyasamy Nadar and his legal heirs.

16. It was further submitted that the appellant, being one of the purchasers under the sale deed dated 18th December, 1998, cannot seek quashing of proceedings by raising disputed questions of fact and by relying upon his defence of being a *bona fide*

purchaser, absence of knowledge or lack of participation in the conspiracy.

17. Learned counsel lastly submitted that the handwriting expert's opinion specifically indicated that the disputed signature on the Will did not tally with the admitted signatures of Ayyasamy Nadar. Whether such opinion is sufficient, and whether it stands corroborated by other material, are issues for trial and cannot form grounds for quashing the criminal proceedings at the threshold. It was further pointed out that the proceedings have already remained pending for several years; the chargesheet was filed in 2018, and the trial has been stalled owing to interim orders. Several accused persons have died during the pendency of the proceedings, and any further delay would seriously prejudice the prosecution as well as respondent No.2-complainant.

18. Learned counsel appearing for the respondents, therefore, prayed for dismissal of the appeal and affirmation of the impugned judgment.

Discussion and Analysis

19. We have heard and thoughtfully considered the submissions advanced by learned counsel for the

parties and have gone through the impugned order and the material placed on record.

20. There is no dispute that A-2 to A-6 (A-6 being the appellant herein), purchased the property in question by way of registered sale deed/s dated 18th December, 1998. The sale deeds clearly demonstrate that the sale was made for valuable consideration. There is not even an *iota* of evidence on record to show that the appellant had any role to play in the alleged fabrication of the Will dated 12th September, 1988. The earlier agreement dated 13th July, 1995 was with A-2 to A-5.

21. The FSL report, on which heavy reliance was placed by learned counsel appearing for respondent No.2-complainant as well as learned counsel appearing for the State, indicates that the comparison of the disputed signatures was made on the basis of a xerox copy of the allegedly forged Will. Thus, there exists a serious issue regarding the evidentiary value and persuasive worth of the said FSL report.

22. Be that as it may, the appellant, being a purchaser of the subject property for valuable consideration, cannot, in the facts of the present

case, be considered to be the person who offered fraudulent inducement to respondent No.2-complainant or made him to deliver some property or part with valuable security so as to bring his acts within the purview of fraudulent inducement and cheating to gain property punishable under Section 420 IPC [corresponding Section 318(4) of the Bharatiya Nyaya Sanhita, 2023].

23. Admittedly, there is no privity of contract between the appellant and respondent No.2-complainant. Neither the FIR nor the impugned order discloses availability of any tangible material to substantiate the allegation that the appellant had conspired in the preparation of the alleged forged Will, or that the registered sale deed dated 18th December, 1998 was executed by him with knowledge that the signatures on the Will were forged.

24. As a matter of fact, even if the allegation of the respondent No.2-complainant, that the Will was forged, is found to be substantiated, the purchasers of the property would be the persons aggrieved because in such circumstances, their title over the property in question would land in dispute, having

being acquired from the vendor who used the so-called fabricated will to execute the registered sale deeds. The situation at hand is squarely covered by the judgment in the case of ***Mohammed Ibrahim and Others v. State of Bihar and Another***.⁴, wherein this Court held as below: -

“20. When a sale deed is executed conveying a property claiming ownership thereto, it may be possible for the purchaser under such sale deed to allege that the vendor has cheated him by making a false representation of ownership and fraudulently induced him to part with the sale consideration. But in this case the complaint is not by the purchaser. On the other hand, the purchaser is made a co-accused.

21. It is not the case of the complainant that any of the accused tried to deceive him either by making a false or misleading representation or by any other action or omission, nor is it his case that they offered him any fraudulent or dishonest inducement to deliver any property or to consent to the retention thereof by any person or to intentionally induce him to do or omit to do anything which he would not do or omit if he were not so deceived. Nor did the complainant allege that the first appellant pretended to be the complainant while executing the sale deeds. Therefore, it cannot be said that the first accused by the act of executing sale deeds in favour of the second accused or the second accused by reason of being the purchaser, or the third, fourth and fifth accused, by reason of being the witness, scribe and stamp vendor in regard to the sale deeds, deceived the complainant in any manner.

⁴ (2009) 8 SCC 751

[...]

23. When we say that execution of a sale deed by a person, purporting to convey a property which is not his, as his property, is not making a false document and therefore not forgery, we should not be understood as holding that such an act can never be a criminal offence. If a person sells a property knowing that it does not belong to him, and thereby defrauds the person who purchased the property, the person defrauded, that is, the purchaser, may complain that the vendor committed the fraudulent act of cheating. But a third party who is not the purchaser under the deed may not be able to make such complaint.”

25. In wake of the above discussion, we are of the firm opinion that allowing further prosecution of the appellant in connection with Chargesheet No.03 of 2018 dated 26th September, 2018, filed in pursuance of FIR/Case Crime No.994 of 2004 dated 12th July, 2004, would be wholly unjustified and would tantamount to gross abuse of the process of the Court.

26. Accordingly, the appeal deserves to be, and is hereby allowed. The impugned order dated 11th August, 2022 is set aside. As a consequence, all proceedings *qua* the appellant only pending in C.C. No.419 of 2018 in the Court of learned Judicial

Magistrate No.II, Karur, are hereby quashed.
However, it is made clear that the proceedings shall
continue against the other accused.

27. Pending application(s), if any, shall stand
disposed of.

.....**J.**
(VIKRAM NATH)

.....**J.**
(SANDEEP MEHTA)

NEW DELHI;
APRIL 21, 2026.