

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 28.04.2015
DELIVERED ON : 30.04.2015

CORAM

THE HONOURABLE MR.JUSTICE P.N.PRAKASH

Crl.O.P.No.10652 of 2015

J.Vidya

.. Petitioner

vs.

1.State rep by
The Inspector of Police
M1, Madhavaram Police Station
Madhavaram.

2.Navaneethammal

... Respondents

Criminal Original Petition filed under Section 482 Cr.P.C.
to call for the records in C.C.No.35 of 2015 pending on the file of
the Judicial Magistrate, Thiruvottiyur and quash the same.

For Petitioner : Mr.R.Sankarappan

For Respondent : Mr.C.Emalias, APP for R1

ORDER

This petition has been filed to call for the records in
C.C.No.35 of 2015 pending on the file of the Judicial Magistrate,
Thiruvottiyur and quash the same.

2. Heard the learned counsel appearing for the petitioner
and the learned Additional Public Prosecutor appearing for the
State.

3. On a complaint lodged by one Navaneethammal, the
respondent police registered a case in Cr.No.528 of 2009 for
offences under Sections 406, 467, 468, 471 r/w 420 IPC against two
accused including the petitioner, and after completing the
investigation a Final Report was filed, which was taken on file as
C.C.No.35 of 2015, challenging which this quash petition has been
filed.

4. On a reading of the Final Report it is seen that the son
of Navaneethammal [defacto complainant], by name Subramanian is a
mentally challenged person. It is the case of the de facto
complainant that she was in dire need of money and raised money by
mortgaging her house property. The de facto complainant was
introduced to Vidya, the petitioner herein, who agreed to lend
Rs.2.5 lakhs as mortgage loan. Believing the representation of

Vidya, the de facto complainant went to Sembium SRO on 24.04.2003 and she signed a document, which believed to be a mortgage deed, but which later on turned out to be a sale deed. It is further seen in the Final Report that Vidya had set up a person to impersonate Subramanian, a mentally retarded son of the de facto complainant in the document and had the document executed.

5. The learned counsel for the petitioner submitted that the sale deed is of the year 2003, but the complaint was lodged only in the year 2009 and that there is a huge delay. Delay is not a reason to quash a criminal prosecution, if otherwise there are materials to proceed against the accused. In this case, it is seen that the petitioner had set up somebody to impersonate Subramania, who is a mentally challenged person and had executed a sale deed in respect of the de facto complainant's property. The learned counsel further submitted that the police had not collected the thumb impression, specimen signature and handwriting from Subramanian and did not send the same for Forensic examination. If the prosecution is able to prove that Subramanian was a mentally challenged person, then the question of not obtaining his handwriting and thumb impression becomes irrelevant. Assuming for a moment that the police had failed to obtain thumb impression and handwritings of Subramania, yet, remiss in investigation cannot be a reason to quash the charge sheet and the accused can take advantage of it during trial.

In the result, this Court is of the view that this is not a fit case to quash the prosecution and accordingly, the petition stands dismissed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

gms

To

1.The Inspector of Police
M1, Madhavaram Police Station
Madhavaram.

2. Judicial Magistrate, Thiruvottiyur.

3.The Public Prosecutor, High Court, Madras.

+ 3 ccs to M/s. R.Sankarappan, Advocate SR.24050

Cr1.O.P.No.10652 of 2015

VD (CO)

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EU 06.03.2015