

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Delivered on: 03.06.2015

Reserved on : 30.04.2015

CORAM

THE HONOURABLE MR.JUSTICE P.N.PRAKASH

Crl.O.P.No.11199 of 2015

and

M.P.Nos.1 & 2 of 2015

Mrs.Malarvizhi

... Petitioner/Accused 10

Vs

1. State rep by
Inspector of Police,
Central Crime Branch - 2,
Land Grabbing Prevention Cell - 2,
Egmore, Chennai - 8.

2. E.Sivaprakasam

... Respondents/Defacto

Criminal Original Petition filed under Section 482 Cr.P.C., to call for the records relating to Proceedings of C.C.No.199 of 2014 on the file of the 1st respondent, quash the same in so far as the petitioner herein is concerned.

For Petitioner : Mr.I.Arockia Selvaraj

For Respondent : Mr.C.Emalias,
Additional Public Prosecutor(R1)

O R D E R

The petitioner/A10 is seeking to quash the criminal prosecution against her in C.C.No.199 of 2014 for offences under Section 420, 465, 468, 471 and 120 (B) of the IPC pending on the file of the Judicial Magistrate, Poonamallee.

2.It is the case of the prosecution that the land measuring 17 cents in Survey No.186 of Menambedu Village originally belonged to one Lakshmaiya Reddiyar and Lakshmiammal. The said couple also owned lands in Survey No.207/3 in the same Village, which they sold to one Govinda Reddiyar by a Sale Deed Document 208/54. In the said Sale Deed, the Survey Number was inadvertently shown as 186 instead of 207/3. Lakshmaiya Reddiyar and Lakshmiammal sold 17 cents of land in Survey No.186 to Duraisamy Reddiyar, from whom the defacto

complainant inherited. The discrepancy in the Survey Number was noticed by Elumalai, the legal representative of Govinda Reddiyar and he appears to have entered into an Agreement with Duraisamy Reddiyar, by which the land measuring 17 cents in Survey No.186 was to be taken by Duraisamy Reddiyar and the land measuring 17 cents in Survey No.207/3, which was originally sold to Govinda Reddiyar, should be retained by that Branch. In other words, Elumalai agreed that he will not take advantage of the fact that in his parent document his Survey Number is shown as 186, which originally belongs to Duraisamy Reddiyar Group. While the situation remains so, a Real Estate Syndicate run by A1 to A5 got scent of this anomaly and with the help of Devendran (A7), who was working in the Land Tax Wing of the Revenue Department, entered into conspiracy to usurp the land in Survey No.186 by creating bogus documents. This group registered a Power of Attorney Document No.849/2005 on 10.03.2005 in the name of A6 and transferred the land in favour of A7 on 12.11.2007. By Document No.12104/2007, A6 transferred 1296 sq.ft. in favour of A7 on 12.11.2007 and further created Powers of Attorney and had sold the property to Malarvizhi - A10.

3.The learned counsel for the petitioner submitted that Malarvizhi is an innocent purchaser and she cannot be implicated in this case.

4.This Court carefully perused the 161 (3) statements of various witnesses recorded by the Police and found that there are sufficient materials on record incriminating Malarvizhi in the offences. A criminal prosecution can be quashed only if it falls within the parameter laid down by the Hon'ble Supreme Court in State of Haryana and others v. Bhajanlal and others 1992 Supp (1) Supreme Court Cases 335.

5.In view of the fact that there are incriminating materials against the petitioner inasmuch as Malarvizhi (A10) knew that krishnaveni (A1), who gave Power of Attorney to Murugan, through whom Malarvizhi purchased, did not have title to the property. In the light of the availability of incriminating materials against the petitioner, it is not a fit case to be quashed.

6.The learned counsel for the petitioner prayed that the petitioner, being a lady, her presence in the trial Court could be dispensed with.

7.This Court directs that the petitioner shall be present in the trial Court to receive the papers under Section 207 Cr.P.C. to answer the charges; for answering the questions under Section 313 Cr.P.C., and on the day of judgment. On the other days, if a petition for dispense with under Section 317 Cr.P.C. is filed, giving an undertaking that the petitioner will not dispute her identity, that her Advocate will cross examine the prosecution

witness in her absence without adopting dilatory tactics, then the trial Court shall liberally consider the same. If the petitioner adopts any dilatory tactics to protract the trial, the trial Court shall insist upon her presence for all hearing dates.

8. With the above observation, the Criminal Original Petition is dismissed. Consequently, the connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

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To

1. The Inspector of Police,
Central Crime Branch - 2,
Land Grabbing Prevention Cell - 2,
Egmore, Chennai - 8.
2. The Judicial Magistrate,
Poonamallee.
3. The Public Prosecutor,
High Court, Madras.

+1cc to Mr.I.Arockia Selvaraj, Advocate, S.R.No.27022

CrI.O.P.No.11199 of 2015
and
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SR(CO)
CA(11/06/2015)

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