



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 13.04.2016

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THE HONOURABLE MR.JUSTICE P.N.PRAKASH

Crl.O.P.(MD)No.6217 of 2016

and

Crl.M.P.(MD).Nos.3012 and 3095 of 2016

M.Chellaiah

... Petitioner/Accused No.2

Vs.

1. The State represented by
the Inspector of Police,
City Crime Branch,
Tirunelveli City.

.. Respondent/Complainant

2. Lovisal Paripuranam

.. Respondent/Defacto
Complainant

Prayer: Criminal Original Petition is filed under Section 482 of Cr.P.C., to call for the records pertaining to the proceedings in C.C.No.31 of 2012 on the file of the Special Court for Land Grabbing Cases, Tirunelveli and quash the same.

For Petitioner : Mr.A.D.Ganeshamoorthi
For R1 : Mrs.S.Prabha
Govt. Advocate (Crl.side)

O R D E R

This Criminal Original Petition has been filed to call for the records pertaining to the proceedings in C.C.No.31 of 2012 on the file of the Special Court for Land Grabbing Cases, Tirunelveli and quash the same.

2. On reading of the charge sheet, it is seen that the de-facto complainant is owner of 10 cents of land in Survey No.586/1. She having acquired the same. She had also filed a suit in O.S.No.15 of 2006 and the judgment and decree dated 05.01.2007 has also been passed in her favour. While so, A1 in this case has executed a power of attorney in favour of A2 and A3 and A4 have signed as witnesses to the said power of attorney. On the complaint given by the de-facto complainant, the respondent police registered a case in Crime No.5 of 2007 and after completing the investigation, has filed a final report in C.C.No.31 of 2012 for the offences under Sections 465, 466, 468 and 420 of I.P.C.



against four accused. Challenging which, the second accused is before this Court.

3. The learned counsel for the petitioner submitted that the total extent of land in Survey No.586/1 is 1 acre and 72 cents and even according to the de-facto complainant, she has only 10 cents, but whereas, A1 has executed power of attorney only in respect of 86 cents. This argument did look attractive, but, on a reading of the power of attorney, it is seen that, the power of attorney has been executed for an undivided share of 86 cents in Survey No.586/1, on account of which, an inference can be drawn, that includes the de-facto complainant's 10 cents also. This Court cannot go into the disputed question of fact, in a quash application as held by the **Supreme Court in State of Haryana v. Bhajan Lal** reported in **AIR 1992 Supreme Court**. Hence, there are *prima facie* materials for the trial to proceed, this is not a fit case to quash the petition. Accordingly, this Criminal Original Petition is dismissed with liberty to the petitioner to raise all the points before the trial Court.

4. Since this case is of the year 2012, the trial Court is directed to expeditiously conduct the trial and complete the same within a period of six months from the date of receipt of a copy of this order. If the accused do not co-operate with the trial, it is open to the trial Court to remand them in custody under Section 309 of Cr.P.C., and also as per the decision laid down by the Honourable Supreme Court in **State of U.P. vs. Sambhunath Singh** reported in **2001(4) SCC 667**. Consequently, the connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar (Records)

/True Copy/

Sub Assistant Registrar

akv

To

1 Special Court For Land Grabbing Cases, Thirunelveli

2. The Inspector of Police, City Crime Branch,
Tirunelveli City.

3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

+1CC to Mr.A.D.Ganeshamoorthi Advocate Sr.No.20714

GJM/GSV/PM/6.5.16-2p-5C

<https://hcservices.ecourts.gov.in/hcservices/>

Cr1.O.P. (MD) No.6217 of 2016
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