



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 27.04.2016

CORAM:

THE HONOURABLE MR.JUSTICE P.N.PRAKASH

Crl.O.P.(MD) No.7112 of 2016andCrl.M.P.(MD) Nos.3591 & 3592 of 2016

Ganesh Singh
Son of Raghunath Singh
Superintendent
O/o.Special Commissioner &
Directorate of Land Survey and
Settlement, Chepauk, Chennai-5

... Petitioner / 3rd Accused

vs.

1.The State through
Inspector of Police
Thirupachethi Police Station
Sivagangai District
(In Crime No.174 / 2005)

...1st Respondent / Complainant

2.Milton
Thasildar
Manamadurai Taluk
Sivagangai District

...2nd Respondent / De facto
Complainant

PRAYER: This petition is filed under Section 482 Cr.P.C., to call for the entire records in C.C.No.26 of 2006 in Crime No.174 of 2005, on the file of the learned Additional District Munsif-cum-Judicial Magistrate, Manamadurai and quash the same as far as petitioner / third accused is concerned.

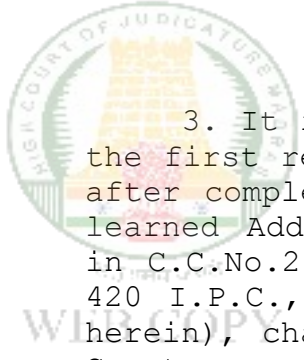
For Petitioner : Mr.N.Murugesan

For Respondents : Mrs.S.Prabha, G.A.(Crl.Side) for R1

O R D E R

The petitioner has filed this criminal original petition, under Section 482 of the Code of Criminal Procedure, seeking quashment of the proceedings, in C.C.No.26 of 2006, on the file of the learned Additional District Munsif-cum-Judicial Magistrate, Manamadurai, in respect of him.

2. Heard the learned counsel for the petitioner and the learned Government Advocate (Criminal Side) appearing for the first respondent.



3. It is seen that on the complaint lodged by the second respondent, the first respondent Police registered a case in Crime No.174 of 2005 and after completion of investigation, they filed a final report, before the learned Additional District Munsif-cum-Judicial Magistrate, Manamadurai, in C.C.No.26 of 2006, for the offences under Sections 468, 471, 417 and 420 I.P.C., against Palani, Muthu Krishnan and Ganesh Singh (Petitioner herein), challenging which the petitioner / third accused is before this Court.

4. On reading of the final report, it is seen that the prosecution has alleged that the land in Survey No.62 of Malavarayanenthal is a Government Poromboke Land, for which Palani / first accused, Muthu Krishnan / second accused and the petitioner Ganesh Singh / third accused had created false documents in order to usurp the said land. It is seen that the petitioner / third accused was working as Superintendent in the Office of the Special Commissioner & Directorate of Land Survey and Settlement, Chepauk, Chennai-5, at the relevant point of time. Further, on reading of the final report and 161(3) Cr.P.C., statement, it is seen that there are sufficient materials for the prosecution to proceed further and hence this Court is of the view that this is not a fit case to quash the entire proceedings in C.C.No.26 of 2016 at this stage inasmuch as the petitioner / third accused along with other accused have fabricated documents in order to usurp Government land.

5. At this juncture, the learned counsel for the petitioner / third accused submitted that the second accused, by name, Muthu Krishnan died and therefore the prosecution as against him is abated. That cannot be a good reason to quash the proceedings as against the petitioner / third accused herein.

6. Further, the learned counsel for the petitioner / third accused submitted that the petitioner / third accused was only a Superintendent at the relevant time and he merely issued a certified copy of the Order and hence he had no mens rea.

7. In the considered opinion of this Court, in a petition under Section 482 Cr.P.C., this Court cannot go into disputed question of facts and the same can be decided only by the Trial Court and hence this petition is liable to be dismissed.

8. In the result, this criminal original petition is devoid of merits and it is dismissed.

9. It is seen that the trial in this case is pending from 2006 and therefore the learned Additional District Munsif-cum-Judicial Magistrate, Manamadurai, is directed to proceed with the trial in C.C.No.26 of 2006 expeditiously 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 in the conduct of trial by cross-examining the prosecution witnesses as and when they examined in chief as held by the Apex Court in Vinod Kumar vs. State of Punjab, reported in 2015 (1) MLJ 288 (SC), it is open to the learned Trial Judge, to remand the accused to custody as per Section 309 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, connected criminal miscellaneous petitions are closed.

Sd/
Assistant Registrar(AE)

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Sub Assistant Registrar.

To

1.The Additional District Munsif-cum-
Judicial Magistrate, Manamadurai.

2.The Inspector of Police,
Thirupachethi Police Station,
Sivagangai District.

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

Crl.O.P.(MD) No.7112 of 2016

and

Crl.M.P.(MD) Nos.3591 & 3592 of 2016
27.04.2016

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