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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 02.05.2017

CORAM

THE HON'BLE MR.JUSTICE P.N.PRAKASH

Crl.O.P.(MD) No.16372 of 2016

and

Crl.M.P.(MD) Nos. 7997 and 7998 of 2016

Thangapoo

... Petitioner/4th Accused

-vs-

1.State represented by,
The Inspector of Police,
Murappanadu Police Station,
Thoothukudi District.
(Crime No.162 of 2015)

... 1st Respondent/Complainant

2.K.Thansingh

... 2nd Respondent/De-facto
Complainant

Prayer: Criminal Original Petition filed under Section 482 of Cr.P.C., praying to call for the records in C.C.No.98 of 2016 on the file of the Judicial Magistrate, Srivaikundam and quash the same.

For Petitioner : Mr.R.Pon Karthikeyan

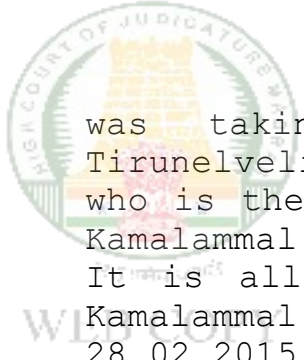
For Respondents : Mr.K.Anbarasan,
Governement Advocate (Crl. Side)

O R D E R

On the complaint lodged by the second respondent, the first respondent police registered a case in Crime No.162 of 2015 and after completing the investigation, has filed a charge sheet in C.C.No.98 of 2016 before the learned Judicial Magistrate, Srivaikundam, for the offences under Sections 120(b), 465, 468, 471, 477(a) against four accused including Thangapoo, the petitioner herein (fourth accused), who was working as Sub-Registrar, Murappanadu. Challenging which, the petitioner is before this Court.

2.Heard the learned counsel for the petitioner and the learned Government Advocate (Crl. Side) for the respondents.

<https://hcservices.ecourts.gov.in/hcservices/>
3.The case of prosecution is that one Kamalammal was owning huge properties and she was physically infirm and indisposed. She



was taking treatment in Jeyakumar Hospital, Melapalayam, Tirunelveli District and was under the custody of second accused, who is the daughter of Kamalammal. Apart from the second accused, Kamalammal had other children including the de-facto complainant. It is alleged in the charge sheet that A2 carried her mother Kamalammal from the hospital to office of Sub-Registrar on 28.02.2015, after informing the hospital authority that she is taking his mother to a nearby temple. There, Kamalammal was made to execute Will and a settlement deed bequeathing all her properties in favour of A3, who is the grand son of Kamalammal and son of A2.

4. It is specifically alleged in the charge sheet that the petitioner, who was the Sub-Registrar at that time had in collusion with A1 to A3, had registered the documents knowing full well that Kamalammal was not in a fit condition both physically and mentally to execute the document.

5. The learned counsel for the petitioner strenuously contended that the Sub-Registrar had only performed his duty by registering document, after ascertaining that Kamalammal was mentally fit to execute the document. In support of his contention, he took this Court to the statement of one Raja, who was working as an Assistant in Sub Registrar's Office, wherein, it is stated that the petitioner had enquired with Kamalammal about her details and only thereafter, he had registered the document.

6. Per Contra Mr.R.Anand, learned counsel appearing for the De-facto complainant deducted the CCTV footages, from the office of the Sub-Registrar, which shows that Kamalammal was being kept in the chair and some signatures were obtained and her Thumb Impression had been obtained in a dubious manner. The statement of the Doctor, who was treating Kamalammal shows that the Kamalammal's condition was precarious on 28.08.2015 and that she was not capable of taking any decision. That apart, even on reading the statement of Raja, it is seen that the signature of Kamalammal was obtained after 6'o clock and she was taken back to hospital only 8'o clock at night.

7. In the light of the above, this Court of view that this is not a fit case to quash the prosecution. Hence, this Petition is dismissed. However, the presence of the petitioner before the trial Court is dispensed with and the petitioner shall appear before the Trial Court for collecting the final report and other papers under Section 207 Cr.P.C., for framing the charges, for questioning under Section 313 Cr.P.C. and on the day of judgment. On all other dates, if the petitioner files an application under Section 317 Cr.P.C., undertaking that he will not dispute his evidence and that his counsel will cross-examine the prosecution witnesses in his absence without adopting dilatory tactics, the Trial Court may liberally consider and entertain the same. If the



petitioner adopts any dilatory tactics, it is open to the Trial Court to insist upon his presence. Consequently, the connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(AD II)

/True Copy/

Sub Assistant Registrar

To

1.The Inspector of Police,
Murappanadu Police Station,
Thoothukudi District.

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

+1cc to M/s.R.Ponkarthikeyan, Advocate, Sr No.55519

+1cc to M/s.R.Anand, Advocate, Sr No.55627

Cr1.O.P.(MD) No.16372 of 2016

and

Cr1.M.P.(MD)Nos. 7997 and 7998 of 2016

02.05.2017

MRN/AM/RJ2

MS/MR/SAR-3/11.05.2017/3P.5C