

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.07.2018

C O R A M

THE HONOURABLE MRS.JUSTICE R.HEMALATHA

Cr1.O.P.No.21016 of 2014
and
M.P.No.1 of 2014

R.Tamil Selvi

...Petitioner

Vs.

M.Doraisamy

...Respondent

PRAYER:

Criminal Original Petition filed under Section 482 of Cr.P.C, to call for the records pertaining to the proceedings in C.C.No.220 of 2014 on the file of the Judicial Magistrate No.VI, Coimbatore and quash the same.

For Petitioner : A.Thiyagarajan

For Respondent : No Appearance

ORDER

The petitioner is shown as accused No.3 in C.C.No.220/2014 on the file of the Judicial Magistrate No.VI, Coimbatore.

2. The respondent /complainant lodged a private complainant under Section 200 of the Criminal Procedure Code, against the present petitioner as well as one K.Rajan and K.Kalatharan, for the alleged offences punishable under Sections 415, 420, 421, 422, 423, 463, 464, 466, 470 and 471 of IPC. The learned Judicial Magistrate No.VI, Coimbatore took cognizance of the aforesaid offence, after recording the evidence of the respondent and other witnesses and issued summons to the accused. The present petition is filed by the third accused to quash the entire proceedings in C.C.No.220/2014 on the file of the Judicial Magistrate No.VI, Coimbatore.

3. The main contention of the petitioner is that the respondent's father late Murugappa Mudhaliyar, mortgaged the property in S.No.436/3C, of Sowripalayam Village, Coimbatore District with one K.Rajan and K.Kalatharan and in order to

realize the amount due under the mortgage deed, the said K.Rajan and K.Kalatharan filed a suit in O.S.No.789/1993 before the Sub Judge, Coimbatore, which was decreed. Subsequently, the present petitioner purchased the said property in Court auction sale in E.P.No.308/2002 in O.S.No.289/1993 and the sale certificate dated 13.02.2008 has also been issued in favour of the present petitioner. It is the contention of the petitioner that when the sale certificate is issued as early as on 13.02.2008 the respondent/complainant cannot file a complaint under Section 200 of the Criminal Procedure Code after a lapse of four years for the alleged offences punishable under Sections 415, 420, 421, 422, 423, 463, 464, 466, 470 and 471 of IPC and that no offence is made out against the accused.

4. On a perusal of the certified copy of the final decree passed in I.A.No.391/2001 in O.S.No.789/1993 and the sale certificate dated 13.02.2008 shows that the present petitioner had purchased the property in Court auction sale and that the sale certificate has also been issued in her favour.

5. The main contention of the respondent/complainant is that the property was sold for a low value and therefore, the accused have committed offences under Sections 415, 420, 421, 422, 423, 463, 464, 466, 470 and 471 of IPC.

6. It is pertinent to point out that the present complaint has been filed in the year 2012, that too, after a lapse of 4 years from the date of sale certificate issued by the II Additional Sub Judge, Coimbatore and therefore, there is an inordinate delay in filing the complaint before the Judicial Magistrate No.VI, Coimbatore. Apart from that since the petitioner has purchased the property in the Court auction sale she cannot be prosecuted for the offences under Sections 415, 420, 421, 422, 423, 463, 464, 466, 470 and 471 of IPC and the complaint also does not disclose any offence as against the present petitioner.

7. In the facts and circumstances of the present case, I hold that the proceedings in C.C.No.220/2012 on the file of the Judicial Magistrate No.VI, Coimbatore, is liable to be quashed as far as the present petitioner is concerned. In the result, this Criminal Original Petition is allowed. Consequently, connected Miscellaneous Petition is also closed.

Sd/-

Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

dna

To

The Judicial Magistrate No.VI,
Coimbatore

+1cc to A.Thiyagarajan, Advocate, S.R.No.48272

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and
M.P.No.1 of 2014

CS/11/08/18



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