



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)

Monday, the Sixteenth day of July Two Thousand Eighteen

PRESENT

The Hon`ble Mrs.Justice R.THARANI

CRL MP (MD) No.4895 of 2018

IN

CRL RC (MD) No.354 of 2018

1 SP.RAMU
2 S.M.LAKSHMANAN
3 G.SEENIVASAN
4 M.KUMARESAN

... PETITIONERS/ACCUSED

Vs

1 THE STATE REPRESENTED BY,
THE INSPECTOR OF POLICE
KARAIKUDI NORTH POLICE STATION,
SIVAGANGAI DISTRICT.

2 THE STATE REPRESENTED BY,
THE INSPECTOR OF POLICE
DISTRICT CRIME BRANCH.

... RESPONDENT/COMPLAINANT

3 K. MOHAMED ALI

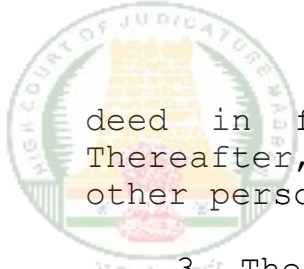
... 3rd RESPONDENT/DEFACTO
COMPLAINANT

Petition praying that in the circumstances stated therein and in the petition filed therewith the High Court will be pleased to dispense with the personal appearance of the petitioners in case in C.C.No. 42/2018 on the file of the learned Judicial Magistrate No. II, Sivagangai.

Order : This petition coming on for orders upon perusing the petition filed in support thereof and upon hearing the arguments of MR.K.K.SAMY, Advocate for the petitioner and of MR.M.CHANDRASEKARAN, Additional Public Prosecutor on behalf of the Respondents 1 & 2, the court made the following order:-

This Criminal Miscellaneous Petition is filed to dispense with the personal appearance of the petitioners in C.C.No.42 of 2018 on the file of the learned Judicial Magistrate No.II., Sivagangai and to stay further proceedings in the above case.

2. On the side of the petitioners, it is stated that the land belongs to one Abdul Azeez, who has executed a general power of attorney in favour of his son and the son in turn executed a sale



deed in favour of the one Ganesa Pandian and Sahul Hameed. Thereafter, Abdul Azeez sold the same property subsequently to some other persons including the complainant herein.

3. Thereby, the third respondent had given a general power deed in favour of one Lakshmanan, who is the second accused. Thereafter, the civil suit has been filed in O.S.No.42 of 2007 on the file of the Sub Court, Devakottai. The District Registrar, Sivagangai had lodged a complaint before the District Crime Branch, against the eight accused persons, including the third respondent herein. The second respondent has registered a case in Crime No. 28 of 2008 and the charge sheet was filed in C.C.No.78 of 2013.

4. Aggrieved by the registration of the case, the third respondent lodged a complaint before the first respondent police as against the petitioners and others. Then, the third respondent filed a petition for direction under Section 156(3) of Cr.P.C., before the learned Judicial Magistrate, Karaikudi and after getting order to register the F.I.R., as against the 12 persons, a case in Crime No.465 of 2010 was registered on the file of the first respondent police. After investigation the case has been closed as 'Mistake of Fact'. Thereafter, the third respondent filed a petition in Crl.O.P.No.1276 of 2012 before this Court for re-investigation. As per the direction of this Court, the second respondent had re-investigated the matter and again filed a report as 'Mistake of Fact' before the learned Judicial Magistrate No.II, in R.C.No.11 of 2014. The learned Judicial Magistrate had given a RCS Notice to the third respondent on 23.09.2014 and the third respondent filed a protest petition twice, therefore, the petitioners have filed a protest petition before this court to call for records relating to the C.C.No. 42 of 2018 and to quash the same.

5. On the side of the petitioners, it is stated that the investigation has been done twice in Crime No.465 of 2010. It was closed as 'Mistake of Fact'. Civil Suit is pending, the protest petition was filed in the year 2014 in Crl.M.P.No. 292 of 2015. The third respondent filed a Tr.O.P and the case was transferred and renumbered as C.C.No.42 of 2018 before the learned Judicial Magistrate No.II, Sivagangai. The petitioners cannot obtain a certified copy of the protest petition and the same was dispensed with by this Court. The petitioners are residing in Karaigudi and find it very difficult to appear before the learned Judicial Magistrate, Sivagangai. Hence, it is prayed that their personal appearance is to be dispensed with and that the respondent is filing so many petitions for the past five years for prolonging the matter. Hence, it is prayed that the proceedings should be stayed.

6. On the side of the respondent, it is stated that the documents were forged one. The parties colluded together and cheated the owner of the property. The second petitioner is the third accused in C.C.No. 42 of 2018. The third petitioner is the sixth accused and the fourth petitioner is the eighth accused.



7. The petitioners asked three prayers in their petitions namely dispensed with the filing of the certified copy of the order passed by the trial court. An opportunity for the petitioner to put forth his case is to be given and as such, this prayer is reasonable.

8. The second prayer is to dispense with the personal appearance of the petitioners. The reasons stated is that the petitioners are senior citizens and they find it difficult to attend the court in Sivagangai from Karaikudi.

9. A perusal of the petitions reveals that the petitioners are below 50 years and they are not senior citizens. Moreover, whenever the petitioners are not able to appear before the lower court, they may file a petition under Section 317 Cr.P.C., and they can file a petition under Section 205 Cr.P.C., before the lower Court, but the petitioners have not taken such steps.

10. The next prayer asked for by the petitioner is to stay the further proceedings in C.C.No.48 of 2018. The reasons given by the petitioners is that the respondent is dragging on the matter by filing so many petitions. Petitioners seek stay for the above reason is unbelievable and this Court is of the view that the petitioners are also trying to drag on the matter by praying for a stay. Hence, there is no merits in this petition, the petition is partly allowed, regarding dispensing with filing the certified copy of the order and this petition is dismissed with regard to the other two prayers.

12. Post this Criminal Revision on 14.08.2018.

sd/-
16/07/2018

/ TRUE COPY /

Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

TO

- 1 THE JUDICIAL MAGISTRATE NO.II, SIVAGANGAI
- 2 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
SIVAGANGAI DISTRICT.
- 3 THE INSPECTOR OF POLICE,
KARAIKUDI NORTH POLICE STATION,
SIVAGANGAI DISTRICT



4 THE INSPECTOR OF POLICE
DISTRICT CRIME BRANCH,
SIVAGANGAI DISTRICT.

WEB COPY

5 THE ADDITIONAL PUBLIC PROSECUTOR
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

ORDER
IN
CRL MP (MD) No.4895 of 2018
IN
CRL RC (MD) No.354 of 2018
Date :16/07/2018

PK/RR/SAR-4/02.08.2018 : 4P/6C