

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.04.2019

CORAM:

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

Crl.O.P.No.4665 of 2019
and
Crl.M.P.Nos.2763 and 2765 of 2019

Kamakshi ...Petitioner/2nd Accused

-Vs-

1. State, represented by;
The Inspector of Police,
DCB Vellore, Vellore District.
(Crime No.34 of 2011)

.. 1st Respondent/Claimant

2. V.Sathish Kumar

...2nd Respondent/Defacto
Complainant

Prayer:

Criminal Original Petition filed under Section 482 of Code of Criminal Procedure, to call for the records in C.C.No.736 of 2018 on the file of the learned Judicial Magistrate No.II, Vellore and quash the same.

For Petitioner : Mr.B.Mahendra Naidu

For Respondent-1 : Mr.Mohammed Riyaz
Additional Public Prosecutor

For Respondent-2 : No Appearance

O R D E R

This Criminal Original Petition has been filed to quash the entire proceedings in C.C.No.736 of 2018, pending on the file of the learned Judicial Magistrate - II, Vellore.

2. Heard the learned counsel appearing for the petitioner as well as the learned Additional Public Prosecutor for the first respondent and none appeared on behalf of the second respondent and perused the materials available on record.

3. The brief facts set out in the petition is that the petitioner is arrayed as second accused in C.C.No.736 of 2018 and her husband/Rajan Babu is the first accused and following the same, charge sheet was filed by the respondent/police before the learned Judicial Magistrate - II, Vellore, in C.C.No.736 of 2018. Further, the petitioner's husband and the defacto complainant handed over the agricultural properties at Minnal Village, Arakkonam and that there is a dispute between him and the defacto complainant's father. Though the present petitioner has no knowledge about the other things and the petitioner's husband used to go to third respondent/sivalingam wants him to execute a power of attorney to settle the dispute and the case if any in the Court. The petitioner has no knowledge about the developments and she has not signed in any documents viz., Power of Attorney or Sale Deed. Later, the petitioner came to know that the accused No.3 who had disposed the properties. Subsequently, the respondent police, Arakkonam, summoned and examined the petitioner and registered a case the FIR in Crime No.275 of 2010 as against the petitioner and the petitioner was informed that it was referred as mistake of facts. Hence, the petitioner has approached this Court to quash the entire proceedings in C.C.No.736 of 2018.

4. It is submitted by the learned counsel for the petitioner that there are totally eight accused in which the petitioner is arrayed as second accused. The first respondent/police has registered a case in Crime No.34 of 2011 on the file of the first respondent police alleged by the second respondent for the offences punishable under Sections 420, 467, 477 (A), 294(b) and 506(i) IPC. After completion of investigation, for the said offence and the same has been taken cognizance by the learned Judicial Magistrate, Arakkonam, Vellore District in C.C.No.736 of 2018, insofar as the petitioner is concerned and the petitioner along with the first accused without any title over the property, they had executed a General Power of Attorney in favour of the third accused. It is also seen from the General Power of Attorney dated 09.01.2009 registered as Document No.20 of 2009 on the file of the Joint Sub-Registrar, Arakkonam, within the local limits of DCB, Vellore, executed a forged General Power of Attorney in favour of the third accused/Sivalingam except the allegation of the petitioner along with the first accused, there is no other allegation as against the petitioner insofar as the entire allegations are concerned.

5. Admittedly, the petitioner did not execute any General Power of Attorney in favour of the third accused, and without even verifying the Power of Attorney, executed in favour of the third accused, the first respondent/police has impleaded the petitioner as an accused in C.C.No.736 of 2018 and he has also been mechanically filed a final report before the learned

Judicial Magistrate No.II, Vellore, without any material as against the petitioner.

6. Considering the above facts and circumstances of the case, the entire charges are nothing but clear abuse of process of law as against the petitioner is concerned. Therefore, this Court is inclined to quash the entire proceedings in C.C.No.736 of 2018 as against the petitioner alone.

7. In view of the fact that the case is of the year 2011. The Trial Court is directed to proceed with the trial as against the other co-accused persons and complete the entire proceedings in C.C.No.736 of 2018 within a period of six months from the date of receipt of a copy of this order.

8. Accordingly, the Criminal Original Petition is allowed. Consequently, connected Criminal Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

msm

To

1. The Judicial Magistrate No.II,
Vellore.
2. The Inspector of Police,
DCB Vellore, Vellore District.
Crime No.34 of 2011
3. The Public Prosecutor,
High Court, Madras.

TM(CO)
CS/16/07/2019

Cr1.O.P.No.4665 of 2019

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