

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 23.01.2019

CORAM:
THE HON'BLE MR.JUSTICE N.ANAND VENKATESH

CRL.O.P.No.23218 of 2017

N.P.Santhi

.. Petitioner

-vs-

1. The State rep. By
The Inspector of Police,
District Crime Branch,
Erode Police Station,
Erode.
(Crime No.33/2014)

2.S.Vivekanandan ... Respondents

Prayer: Criminal Original petition is filed under Section 482 of Criminal Procedure Code, to call for the records relating to the case in Crime No.33 of 2014 on the file of the 1st respondent police, quash the same.

For Petitioner : Mr.D.R.Arun Kumar

For Respondents : Mr.M.Mohamed Riyaz
Additional Public Prosecutor for R1

ORDER

This Criminal Original Petition has been filed seeking to quash the FIR in Crime No.33 of 2014, pending on the file of the 1st respondent police.

2.The case of the prosecution is that the property belongs to the father of the defacto complainant and one Palanisamy has taken the said property on oral lease in the year 1993 and the same was subsequently registered in the name of the second respondent and he is paying the lease amount regularly to the defacto complainant. During the year 2010-2011, the said Palanisamy refused to pay the lease amount on the ground that a Will has been executed in favour of A1, viz., N.R.Palanisamy and that he has obtained a decree in O.S.No.323 of 2007. According to the defacto complainant, this is a forged Will. The present petitioner, who is the daughter of A1, has been added as A5 in the FIR.

3.The only allegation that has been made in the complaint is that this petitioner is a practicing advocate at Avinashi and she is the one, who is giving advice to A1.

4.The learned counsel for the petitioner submitted that the respondent Police registered an FIR for offence under Sections 120-B, 465, 468, 420, 471 of IPC. None of these offences are attracted against this petitioner. That apart, the learned counsel also brought to the notice of this Court the suit filed by the second respondent as against the said Palanisamy in O.S.No.219 of 2017 seeking for declaration of title and for delivery of possession and other consequential reliefs.

5.The learned counsel further submitted that this petitioner has been made as accused only with a male fide intention to spoil the name of the petitioner, who is a practicing advocate.

6.It is seen that there are absolutely no allegations against this petitioner and the only allegation that has been made against this petitioner is that she is a practicing advocate and she is advising A1. This does not constitute any offence against this petitioner. The continuation of the FIR as against this petitioner is an abuse of process of law.

7.In view of the above, the FIR in Crime No.33 of 2014, pending on the file of the 1st respondent police, is hereby quashed insofar as this petitioner is concerned and the respondent Police is directed to proceed further insofar as the other accused are concerned and file a final report or closure report as a case may be, within a period of three months from the date of receipt of a copy of this order.

8.In the result, this Criminal Original Petition is allowed accordingly.

Sd/-
Assistant Registrar(J)

//True Copy//

Sub Assistant Registrar

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To

1.The Inspector of Police,
District Crime Branch,
Erode Police Station, Erode.

2.The Public Prosecutor,
High Court, Madras.

+lcc to Mr.D.R.Arun Kumar, Advocate, S.R.No.5283

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rrs 11/02/2019