



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON : 21.02.2019

PRONOUNCED ON : 19.03.2019

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THE HONOURABLE MR.JUSTICE N.SESHASAYEE

Crl.O.P. (MD) No.21597 of 2018andCrl.M.P. (MD) Nos.10009 and 10010 of 2018 and 495 of 2019

Pasir Mohamed

... Petitioner / Accused No.4

-Vs-

1. State Represented through
The Inspector of Police,
Ganesh Nagar Police Station,
Pudukkottai District.

... 1st Respondent / Complainant

2. Ramasamy

... 2nd Respondent/ Defacto
Complainant

Prayer: Criminal Original Petition filed under Section 482 Cr.P.C., praying, to call for the records pertaining to the complaint in Spl.C.C.No.50 of 2018 on the file of the learned Principal Sessions Judge, Pudukkottai and quash the same.

For Petitioner	: Mr.AR.L.Sunderasan, Senior Counsel For Mr.J.Anandkumar
For R1	: Mr.A.P.G.OHM Chairma Prabhu, Government Advocate (Crl.Side).
For R2	: Mr.T.Lajapathi Roy

ORDER

The present petition is filed to quash the final report filed before the learned Principal Sessions Judge, Pudukkottai for the offences under Sections 120B, 420, 465, 468, 471 and 447 IPC r/w 3 (1)(g) of the Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Amendment Act, 2015, in which the petitioner herein arrayed as the fourth accused.

2.The charges are yet to be framed by the trial Court. The allegation discloses in the First Information Report is that the mother-in-law of the second respondent herein namely, Lakshmi had purchased two plots in Plot Nos.149 and 150 on 20.08.1997 from one Sabiya Beevi. Subsequently, she has sold the Plot No.150 to one Mohammed and thereafter, the said Lakshmi died on 22.02.1997 in



Malaysia. Be that as it may, the third and fourth accused conspired together and created a document that the said Lakshmi died on 12.05.1995 leaving one Subbiah as heir and that Subbiah also died on 05.08.2004 leaving one Pusparaj and that Pusparaj sold the property to the first accused. The said sale deed was attested by the fifth and sixth accused. So far as the allegation against the present petitioner is concerned, the fourth accused has conspired with the other accused to create various documents.

3. On reading of the Final Report, it discloses that all the accused have committed the offences under Sections 120B, 420, 465, 468, 471 and 447 IPC r/w Section 3(1)(g) of SC and ST Act, 2015.

4. The learned counsel appearing for the petitioner would submit that the only reason why the petitioner was implicated in this offence is that after purchase, the first accused entered into construction agreement with the petitioner for construction of house in the said plot on 14.07.2017. Therefore, the petitioner herein has helped the first accused to get bank loan and also signed as a guarantor to the said Housing Loan from Karur Vysya Bank and when the wife of the defacto complainant tried to stop the construction of the house in the said plot, the petitioner herein without considering the objection proceeded with the construction of the house.

5. The learned counsel further submitted that none of the grounds would imply that he has factually or tacitly participated the commission of crime. Admittedly, there is a sale deed in favour of the first accused and the fourth accused being a civil contractor had entered into an contract with the first accused and no witnesses have given a statement attributing any of these overt acts to the petitioner. He only acted upon the statement of the first accused that the property belongs to him and accordingly, agreed to put up a construction.

6. Reading the statements of the witnesses, there is nothing to indicate that the petitioner could be said to have participated in the fraudulent acts alleged by the complainant. He was merely a professional, who has undertaken to construct because he was engaged by one of the accused persons. The minimum care, if at all that is required, on his part is to ascertain if the person who has engaged him to construct had title in his favour. Admittedly there is one, but whether it is fabricated document or otherwise would be known only after the trial. But at the point when the offense was said to have been committed, there should have been a role in the acts constituting the offense, and there should be material made available by the investigating agency that should prima facie point to it and charges could be framed against the petitioner. This last mentioned limb is missing.

7. In the ultimate analysis, this court finds merit in the submissions of the petitioner's counsel, and accordingly the final



report now pending in Spl.C.C.No.50 of 2018 on the file of the learned Principal Sessions Judge, Pudukkottai, is quashed only as concurring the petitioner alone.

8. In fine, this Criminal Original Petition is allowed. Consequently, Crl.M.P. (MD) Nos.10009 and 10010 of 2018 and 495 of 2019 are closed.

sd/
Assistant Registrar (CS-III)

/True Copy/

Sub Assistant Registrar

To

1. The Principal Sessions Judge,
Pudukkottai.
2. The Inspector of Police,
Ganesh Nagar Police Station,
Pudukkottai District.
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to Mr.J.ANAND KUMAR, Advocate (SR-54907[F] dated 19/03/2019)

Crl.O.P. (MD) No.21597 of 2018
and
Crl.M.P. (MD) Nos.10009 and 10010 of 2018 and 495 of 2019
19.03.2019

CM
MK/20.05.2019/3P/5C