



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 26.09.2019

CORAM :

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

Crl OP(MD)No.13169 of 2014
and
MP(MD)Nos.1 & 2 of 2014

1.A.Thirunavukkarasu

2.SP.S.S.Arumugam

... Petitioners/Accused Nos.1&2

Vs.

S.P.Chinna Veerappan(died)

1.Alamelu

2.CVR.Subramanian

3.Muthiah Chinnaveerappan

... Respondents

(Respondents are substituted vide
order dated 26.09.2019 in
Crl MP(MD)No.8372 of 2019 in Crl. OP(MD)13169/2014)

Prayer : Criminal Original Petition is filed under Section 482 of Criminal Procedure Code, to call for the records in C.C No.235 of 2013 pending on the file of the Judicial Magistrate Court, Karaikudi and quash the same.

For Petitioners : Mr.Anand Chandrasekar
for M/s.Saravabhauman Associates

For Respondents : Mr.A.R.L.Sundaresan, Senior Counsel
for Mrs.P.Kalaiyarasim Bharathi

ORDER

This petition has been filed by the petitioners for quashing the impugned proceedings in C.C No.235 of 2013 on the file of the Judicial Magistrate, Karaikudi. The respondent in this case is one ~~Chinna Veerappan~~. He filed a complaint under Section 200 of Cr.PC



and direction under Section 156(3) of Cr.PC was issued on 15.06.2012. Pursuant to the said direction given by the learned Judicial Magistrate, Crime No.257 of 2012 was registered on the file of the Inspector of Police, North Police Station (crime), Karaikudi for the offences under Sections 419, 420, 465, 468 and 506 (i) IPC.

2.The allegation of the defacto complainant is that the property in question belonging to Vairavan Kovil, Vairavanpatti, Thiruppathur Taluk was unlawfully sold by A6 in favour of A5 vide a registered sale deed dated 10.08.2009. The police investigated the matter and filed a closure report. The defacto complainant filed protest petition. Finally, the case was taken on file as a private complaint in C.C No.235 of 2013 for the offences under Sections 419, 420, 465, 468 and 506(i) IPC. To quash the same, A1 and A2 have filed this quash petition.

3.During the pendency of this petition, the complainant passed away and his legal heirs have been substituted in his place. Heard the learned counsel for the petitioners and the learned Senior Counsel appearing for the respondents.

4.I went through the contents of the sale deed dated 10.08.2009 that is the subject matter of these proceedings. A mere look at the recitals of the said sale deed would indicate that the property belonging to Vairavan Temple more particularly to the Theiyyanar sub group was conveyed by the trustees of the temple based on the resolution of the Theiyyanar group made on 24.06.2006. The first petitioner has attested the said sale deed. As regards the second petitioner, the only allegation is that he is also a party to the conspiracy. The second petitioner has not executed the document in question. He is not even an attester.

5.Therefore, I am of the view that the impugned proceedings deserve to be quashed as far as the second petitioner is concerned. Accordingly, the impugned proceedings stand quashed as far as the second petitioner is concerned. The first petitioner will have to face the trial. The first petitioner is an aged person. Therefore, his personal appearance before the court below is dispensed with. Of course, he will have to appear only at the time of answering the charges, at the time of examination under Section 313 of Cr.Pc and again, at the time of pronouncement of judgment. On all other hearing dates, he will have to be represented by a counsel. If the counsel is also not present, the court below will be justified in issuing NBW against the first petitioner.



WEB COPY

Crl OP(MD)No.13169 of 2014

6.This criminal original petition is partly allowed. Connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (Ad-II)

// True Copy //

Sub Assistant Registrar(CS)

Skm

To

The Judicial Magistrate, Karaikudi.

Cr1 OP(MD)No.13169 of 2014

and

MP(MD)Nos.1 & 2 of 201426.09.2019

CS(23.10.2019) 3P 2C