



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 26.09.2019

CORAM :

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

Crl OP(MD)No.15211 of 2014

and

MP(MD)No.1 of 2014

Sathyaraj

... Petitioner / Accused No.2

Vs.

1.State, rep.by

The Sub Inspector of Police,
District Crime Branch,
Nagercoil,
Kanyakumari District.

...1st Respondent / Complainant

2.Vijayan

...2nd Respondent / Defacto complainant

Prayer : Criminal Original Petition is filed under Section 482 of Criminal Procedure Code, to call for the records pertaining to the impugned charge sheet laid in C.C No.143 of 2013 on the file of the Judicial Magistrate No.II, Kuzhithurai, and quash the same insofar as the petitioner herein is concerned.

For Petitioner : Ms.J.Anandavalli

For Respondents : Mr.A.Robinson,
Government Advocate (crl.side)

: Mr.C.K.M.Appaji for R2

COMMON ORDER

The petitioner is facing trial as A2 in C.C No.143 of 2013 on the file of the Judicial Magistrate No.II, Kuzhithurai for the offences under Sections 465, 467, 468, 471 and 420 IPC. To quash the same, this criminal original petition has been filed.

2.Heard the learned counsel on either side. The learned counsel for the petitioner reiterated all the contentions set out in the memorandum of grounds and the learned Government Advocate (crl.side) submitted that the impugned prosecution deserves to be continued and does not warrant any interference at the hands of this



3.The prosecution case is that the petitioner namely Sathyaraj purchased a property comprised in S.No.380/8D, Kollangode Village vide a registered sale deed dated 28.09.2000. He also obtained a patta in respect of the property covered by the said sale deed. The basic allegation of the defacto complainant is that Sathyaraj submitted an another application before the revenue authority for obtaining patta in respect of the property comprised in S.Nos.376/9 and 376/13. In order to obtain patta for the lands comprised in those two survey numbers, Sathyaraj made changes in the schedule to the sale deed dated 28.9.2000. The investigation officer examined the revenue authorities. The statement of Thiru.Justin Abraham who was the Deputy Tahsildar of Kuzhithurai Taluk Office during the year 2008 is enclosed in the final report and he had clearly stated in his statement recorded under Section 161 of Cr.PC that the petitioner herein submitted a forged document by including Survey Numbers.376/9 and 376/13 in the place of S.No.380/8D. Likewise, Thiru.Devadoss who was the Village Administrative Officer during the relevant time had also stated that Sathyaraj had submitted a forged document for obtaining patta for the land comprised in 376/9 and 376/13 also.

4.Thus, there are prima facie materials for fastening penal liability on the petitioner herein. The Hon'ble Supreme Court in Criminal Appeal No. 1082 of 2019 (Arising out of SLP (Crl.) No. 10762 of 2018), held as follows :

"13.The inherent jurisdiction, though wide and expansive, has to be exercised sparingly, carefully and with caution and only when such exercise is justified by the tests specifically laid down in the Section itself, that is, to make orders as may be necessary to give effect to any order under the Code, to prevent the abuse of the process of any Court or to otherwise secure the ends of justice.

14.For interference Under Section 482, three conditions are to be fulfilled. The injustice which comes to light should be of a grave, and not of a trivial character; it should be palpable and clear and not doubtful and there should exist no other provision of law by which the party aggrieved could have sought relief.

15.In exercising jurisdiction Under Section 482 it is not permissible for the Court to act as if it were a trial Court. The Court is only to be prima facie satisfied about existence of sufficient ground for proceeding against the Accused. For that limited purpose, the Court can evaluate materials and documents on record, but it cannot appreciate the evidence to



conclude whether the materials produced are sufficient or not for convicting the Accused.

16.The High Court should not, in exercise of jurisdiction Under Section 482, embark upon an enquiry into whether the evidence is reliable or not, or whether on a reasonable appreciation of the evidence the allegations are not sustainable, for this is the function of the trial Judge. This proposition finds support from the judgment of this Court in Zandu Pharmaceutical Works Ltd. and Ors. v. Mohd. Sharful Haque and Anr. MANU/SC/0932/2004 : (2005) 1 SCC 122."

5.This Court will not be justified in invocation of the inherent powers of this Court. Hence, this petition stands dismissed. It is made clear that the observations made in this order are only for the purpose of disposing of this petition and it will not have any bearing on the trial. It is to be dealt with entirely on its own merits. Connected miscellaneous petitions are also stand dismissed.

Sd/-

Assistant Registrar (Writs)

// True Copy //

Sub Assistant Registrar

To

- 1.The Judicial Magistrate No.II,
Kuzhithurai.
- 2.The Sub Inspector of Police,
District Crime Branch,
Nagercoil, Kanyakumari District.
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to M/s.C.K.M.APPAJI, Advocate (SR-89786[F] dated 26/09/2019
+1 CC to M/s.J.ANANDHAVALLI, Advocate (SR-89884[F] dated 27/09/2019

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