



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 19.11.2020

CORAM:

WEB COPY

THE HONOURABLE MRS. JUSTICE J.NISHA BANU

Crl.O.P.(MD).No.13054 of 2020

and

Crl.M.P.(MD) Nos.5958 and 5960 of 2020

1.N.Kader Mohideen
2.K.Shafica Thasneem

..Petitioners/A1 & A2

vs.

1.State represented through
The Inspector of Police
District Crime Branch
District Police Office
Madurai Road, Theni
Theni District
(Crime No.2 of 2020)

..1st Respondent/Complainant

2.K.P.Kamarudeen

..2nd Respondent/Defacto Complainant

PRAYER: This Criminal Original Petition has been filed under Section 482 of Criminal Procedure Code, to call for the records of the impugned charge sheet in C.C.No.3 of 2020 on the file of the learned Judicial Magistrate / Special Court for Land Grabbing Cases, Theni District and quash the same as illegal.

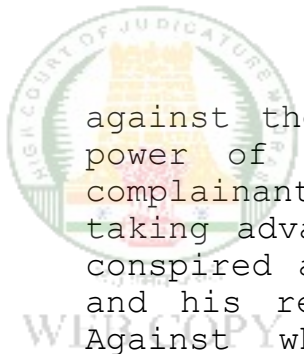
For Petitioners: Mr.K.Safar Badhusa

For R1 : Ms.S.E.Veronica Vincent
Government Advocate (Crl.Side)

O R D E R

This Criminal Original Petition has been filed to call for the records of the impugned charge sheet in C.C.No.3 of 2020 on the file of the learned Judicial Magistrate / Special Court for Land Grabbing Cases, Theni District and quash the same as illegal.

2.The learned counsel appearing for the petitioner reiterated the contentions set out in the original petition. He further submitted that the defacto complainant registered a false case



against the petitioners and stating that during the year 2004, a power of attorney was executed for maintenance of the defacto complainant's family members in favour of the first petitioner, by taking advantage of the power, the first respondent has criminally conspired and created three forged documents in favour of his wife and his relatives and registered a sale deed in the year 2011. Against which, the defacto complaint lodged a complaint on 14.10.2019 and the same was registered in Crime No.2 of 2020 on the file of the first respondent on 03.02.2020. After completing investigation, the first respondent filed a charge sheet under Sections 420, 465, 468, 471 and 120(b) I.P.C before the learned Judicial Magistrate/Special Court for Land Grabbing Cases, Theni and the same was taken on file in C.C.No.3 of 2020 against the petitioner and thereafter, an alternation report was filed by arraying the second petitioner as second accused in this case. He further submitted that the petitioners are no way connected with the crime as alleged by the defacto complainant and the complaint has been lodged with ulterior motive in order to spoil the image and reputation of the petitioners in the society.

3.Heard the learned counsel for the petitioners and the learned Government Advocate (Crl.side) appearing for the first respondent and perused the materials available on record. In view of the order going to be passed, notice to the second respondent is not necessary.

4.The Hon'ble Supreme Court by judgment dated 02.12.2019 in **Crl.A.No.1817 of 2019 in the case of M.Jayanthi vs. K.R.Meenakshi and another** has held as follows:-

'9.It is too late in the day to seek reference to any authority for the proposition that while invoking the power under Section 482 Cr.P.C for quashing a complaint or a charge, the Court should not embark upon an enquiry into the validity of the evidence available. All that the Court should see is as to whether there are allegations in the complaint which form the basis for the ingredients that constitute certain offences complained of. The Court may also be entitled to see (i) whether the preconditions requisite for taking cognizance have been complied with or not; and (ii) whether the allegations contained in the complaint, even if accepted in entirety, would not constitute the offence alleged.'

6.Here in the present case, the complainant had made specific allegations in the complaint filed against the petitioners and therefore, the grounds raised in this petition can be gone into only in a full-fledged trial. Considering the facts and circumstances of the case, this Court is not inclined to quash the proceedings in C.C.No.3 of 2020 on the file of the learned Judicial Magistrate / Special Court for Land Grabbing Cases, Theni District.



7. Accordingly, this Criminal Original Petition is dismissed. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

msa

NOTE: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

1. The Judicial Magistrate / Special Court for Land Grabbing Cases,
Theni District
- 2.The Inspector of Police
District Crime Branch
District Police Office, Madurai Road, Theni
Theni District
- 3.The Additional Public Prosecutor
Madurai Bench of Madras High Court
Madurai

Crl.O.P.(MD).No.13054 of 2020

and

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19.11.2020

VR(CO)

NR (04/12/2020) 3P : 4C