



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 27.02.2020

CORAM

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

CRL.O.P (MD) No.10744 of 2015

and

M.P (MD) Nos.1 & 2 of 2015

1. Vijayakumar @ Vibinash
2. Jeyalakshmi
3. Nirmal Kumar ...Petitioners/Accused No.4,6 & 7

Vs

1. State, Represented by,
The Inspector of Police,
District Crime Branch,
Karur,
Karur District.

2. B.Vanitha ...Respondents/Complainant

PRAYER : Criminal Original Petition filed under Section 482 of Criminal Procedure Code, to call for the records and quash the the proceedings in CC No.167 of 2014, on the file of the Judicial Magistrate Court No.II, Karur, Karur District, as against the petitioners.

For Petitioners : Mr.A.Thiruvadi Kumar

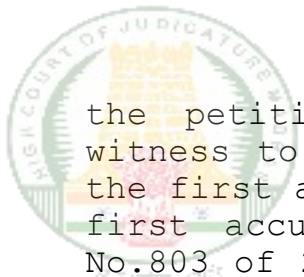
For R-1 : Mr.M.Chandrasekaran
Additional Public Prosecutor

For R-2 : Mr.T.Antony Arulraj

ORDER

This Criminal Original Petition has been filed seeking the relief to quash the proceedings in CC No.167 of 2014, on the file of the Judicial Magistrate Court No.II, Karur District, as against the petitioners.

2. The petitioners herein, who are accused 4,6, & 7 in CC No.167 of 2014 had filed this quash petition. The contention of



the petitioners is that the first petitioner is the attesting witness to the document No.1567 of 2005 dated 20.12.2005. Wherein, the first accused sold the property to the Defacto Complainant. The first accused created a forged power of attorney vide document No.803 of 2008, second accused impersonated as defacto complainant. The second and third petitioners are concerned, it is the submission that they are only the attesting witnesses to the sale deed document No.2869 of 2011 dated 09.02.2011, wherein A1 is said to have sold the property to his wife Jansi Rani and the same has been cancelled vide cancelled power of attorney document No.320 of 2011.

3. Further the contention of the petitioners is that as far as second and third petitioners are concerned, they are no way involved in any forgery. They are only the attesting witnesses to the documents and they have been falsely implicated in this case. Further, it is submitted that the property has been restored and put back to the defacto complainant without any encumbrance. Hence, there is no question of forgery. The second and third petitioners are concerned, the registration authorities insisted that the same persons, who were witnesses to the earlier documents, which now claimed to be forged, the same persons to be witnessed to the subsequent cancellation document. Hence, they had been forced to be witness. They have to role after then that. Further based on the allegation, forged document no further act has been committed.

4. The second respondent defacto complainant submitted that the property was purchased by the defacto complainant in the year 2005 by document No.1567 of 2005 from the first accused. Later, the first accused had used these petitioners for creating forged documents and in one of the documents, photograph of the defacto complainant has been impersonated with somebody's photograph, which amounts to a clear forgery.

5. The learned Public Prosecutor submitted that in this case, on receipt of complaint, investigation conducted, witnesses examined and documents have been collected from the Registration Department and others. Totally seven accused in this case and charge sheet came to be filed in the year 2013 and the case has been taken on file as CC No.167 of 2014 by the Judicial Magistrate No.II, Karur. Due to the pendency of the Crl.O.P filed in this case, it could not be progressed and kept pending for more than six years.

6. Considering the submissions and on perusal of materials, this Court finds that there are disputed facts between the parties. Further, there are allegations and counter allegations made by both petitioner as well as Defacto Complainant. In view of the disputed facts, which have to be agitated before the trial Court, this Court is not inclined to entertain this petition and hence this Criminal Original Petition is dismissed. Further, there shall be a direction to the trial Court to give priority in disposal of the case, considering the fact that the case is of the year 2014.



Consequently, connected miscellaneous petition is closed.

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Assistant Registrar(AD-I)

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/ /2020
Sub Assistant Registrar

vrn

To

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

+1 CC to M/s.T.ANTONY ARUL RAJ, Advocate (SR-9024[F] dated
27/02/2020)

+1 CC to M/s.A.THIRUVADI KUMAR, Advocate (SR-9056[F] dated
28/02/2020)

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