



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 10.03.2020

CORAM:

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

Crl.O.P. (MD)No.9840 of 2016

and Crl.M.P. (MD)No.4952 of 2016

A.Kanniah

... Petitioner

Vs.

1.The State represented by
The Inspector of Police,
Anit Land Grabbing Special Cell,
Thoothukudi District.
(Crime No.19 of 2016)

2.V.Shankar Anand

... Respondent

PRAYER: Petition filed under Section 482 Cr.P.C., to call for the entire records pertaining to the case in crime No.19 of 2016 on the file of the Inspector of Police, Anti Land Grabbing Special Cell, Thoothukudi District and quash the same as against the petitioner.

For Petitioner : Mr.R.Anand

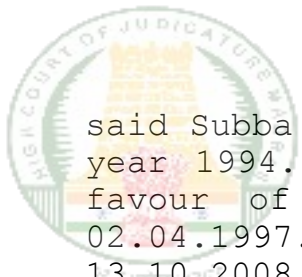
For R1 : Mr.S.Chandrasekar,
Additional Public Prosecutor.

For R2 : Mr.D.Saravanan

ORDER

Petition filed under Section 482 Cr.P.C., to quash the proceedings in crime No.19 of 2016.

2.A case has been registered against this petitioner and five others for the offence under Sections 419, 465, 468, 420 IPC and under the investigation. It is the case in respect of property which originally stood in the name of one A.Sundararajan, which was mortgaged on 29.04.1953 and later purchased by one Subba Rediyyar on 24.06.1958. According to the defacto complainant, the said Subba Rediyyar had no issues and therefore, it was reverted back to his brother and the defacto complainant is the grand son of Subba Rediyyar. The records in the case are being maintained by name Venkatachalam. Whereas it is subsequently alleged in the complaint that one Chellaya Rediyyar, who is arrayed as A6, has impersonated himself as the son of the



said Subba Rediyyar and created sale document in favour of A2 in the year 1994. In addition to that, power of attorney was created in favour of A3 and they sold the property in favour of A5 on 02.04.1997. The present petitioner has purchased the property on 13.10.2008 from A5.

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3. According to the petitioner, he is a bonofide purchaser for value and he was not aware of the forged sale deed created by Chellaya Rediyyar, executed in favour of A2 on 20.12.1994. The proceedings against the petitioner have to be quashed since he had no *mens rea* in the alleged offence of impersonation.

4. Relying upon the decision of the Hon'ble Supreme Court reported in (2018) 3 SCC (Cri) 275, the learned counsel for the petitioner would submit that to attract offence under Section 464 IPC, the accused to be a party to the document and in making false document whereas in this case the petitioner was only a purchaser after 13 years of execution of alleged sale deed. When the petitioner is a bonafide purchaser, he cannot be charged under Section 464 IPC.

5. Whether the said citation and the submission applicable for the facts of the present case has to be decided only in the course of investigation. Here is the case where there is a specific complaint of forgery and impersonation. Based on the false document, title has been transferred to the petitioner herein. The petitioner has to participate in the investigation and produce all the documents to show that he has purchased the property for value and he is a bonafide purchaser.

6. The participation of the petitioner in the offence cannot be summarily decided in the petition under Section 482 Cr.P.C. This Court is not inclined to interfere in the investigation by entertaining this petition.

Accordingly, this criminal original petition is dismissed. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

gns



TO

1.The Inspector of Police,
Anit Land Grabbing Special Cell,
Thoothukudi District.

2.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to M/s.D.SARAVANAN, Advocate (SR-11117[F] dated 11/03/2020)

SS/12.05.2020/3P-4C

Cr1.O.P.(MD)No.9840 of 2016

DATED: 16.03.2020