



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: **09.01.2020**
CORAM:

THE HONOURABLE MR.JUSTICE A.D.JAGADISH CHANDIRA

Crl.O.P.(MD)No.19066 of 2019

and

Crl.M.P.(MD)Nos.11191 & 11192 of 2019

P. Rajendran : Petitioner/A5

Vs.

1. State rep. by
Inspector of Police,
District Crime Branch Police Station,
Madurai, Madurai District.
(Crime No. 46 of 2011) : 1st respondent/Complainant

2. E.M.G.S. Arun Pothe : 2nd Respondent/Defacto Complainant

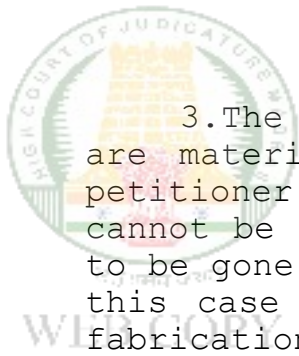
PRAYER: Criminal Original Petition filed under Section 482 Cr.P.C., to call for the records in connection with the charge sheet in C.C.No. 41 of 2017 on the file of the learned Special Judicial Magistrate, Special Court for Exclusive Trial of Land Grabbing Cases, Madurai, Madurai District and quash the same in so far as the petitioner is concerned.

For Petitioner : Mr.S.Sarvagan Prabhu
For R1 : Mr.S.Chandrasekar
Additional Public Prosecutor

ORDER

This Criminal Original Petition has been filed to quash the proceedings in C.C.No. 41 of 2017 on the file of the learned Special Judicial Magistrate, Special Court for Exclusive Trial of Land Grabbing Cases, Madurai, Madurai District .

2.The learned counsel appearing for the petitioner would submit that the petitioner was arraigned as A-5 in this case. He would further submit that petitioner is only a real estate broker and he has been granted power of attorney and that there is no specific overt act against him. He would further submit that in respect of very same dispute civil cases are pending. The respondent police conducted the investigation in a mechanical manner and filed the charge sheet as against the petitioner and hence, sought for quashment of the proceedings.



3.The learned Additional Public Prosecutor submitted that there are materials available to proceed with the case as against the petitioner herein and at the threshold, the criminal proceedings cannot be quashed and the charges framed against the petitioner has to be gone into a full-fledged trial. Further, he would submit that this case where the petitioner along with other accused conspired fabrication of documents, created forged documents and cheated the defacto complainant and hence, he prayed for dismissal of the petition.

4.This Court is of the view that all the grounds can be raised before the trial Court and there is no merit in the quash petition.

5. At this juncture, the learned counsel appearing for the petitioner prayed that the personal appearance of the petitioner before the trial Court, may be dispensed with.

6.Accepting the said submission, the presence of the petitioner before the trial Court shall be dispensed with on condition that he shall be present on the first day of appearance, on the date fixed for receiving the copies, initial questioning, reply to charges and questioning under Section 313 of Cr.P.C., and at the time of passing judgment and whenever insisted upon by the trial court.

7.The petitioner is further directed to give an undertaking in the form of affidavit that he will be duly represented by a counsel on all hearing dates and that the Counsel representing him will cross examine the prosecution witnesses on the same day they are examined in chief. The petitioner shall not dispute the identity of the witnesses. The petitioner shall appear before the Court in the event his presence is insisted by the trial judge for the purpose of identification. If the petitioner adopts any dilatorical tactics, it is open to the Trial Court to insist for his appearance and deal with the petitioner in accordance with the judgment of Supreme Court of India, ***in State of Uttar Pradesh Vs. Shambunath Singh***, reported in ***2001 (4) SCC 667***.

8. Accordingly, this Criminal Original Petition stands dismissed. Consequently, connected Miscellaneous Petition in Crl.M.P(MD) No.11191 of 2019 stands closed and Crl.M.P(MD) No.10925 of 2019 stands ordered.

Sd/-

Assistant Registrar (crl.side)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)



1. The Special Judicial Magistrate,
Special Court for Exclusive Trial of
Land Grabbing Cases, Madurai,
Madurai District

2. The Inspector of Police,
District Crime Branch Police Station,
Madurai, Madurai District.

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

+1 CC to Mr.S.SARVAGAN PRABHU, Advocate (SR-1328[F] dated
10/01/2020)

Crl.O.P.(MD)No.19066 of 2019
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MK (29.01.2020) 3P 5C