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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 22.09.2021

CORAM

THE HONOURABLE MR. JUSTICE C.V.KARTHIKEYAN

Crl.OP.No.29219/2015 & M.P.No.1/2015

[Video Conferencing]

1.K.Shiva @ Thirumurthy
2.K.Krishnamurthy
3.K.Mohan
4.Usharani

...Petitioners/Accused 1 to 4

Versus

1.G.Sadhanandan
2.G.Sankar
3.G.Santhakumar

... Respondents/Complainants 1 to 3

Prayer : - Criminal Original Petition filed under Section 482 of Cr.P.C to pass an order quashing the complaint bearing CC.No.3369/2015 on the file of the learned XVIII Metropolitan Magistrate, Saidapet, Chennai.

For Petitioners : Mr.Sarfudeenlai Ahmed

For Respondents : Mr.K.P.Chandrasekaran
Mr.K.Baskar

ORDER

- (1) The present petition has been filed under Section 482 of CrPC to quash C.C.No.3369/2015 which is now pending on the file of the learned XVIII Metropolitan Magistrate, Saidapet, Chennai.
- (2) A complaint had been given alleging offences under Sections 120(b), 406, 420, 465, 506(ii) read with 34 of IPC by the respondents herein and presented before the said Magistrate.
- (3) It is stated that a dispute has arisen with respect to a property at Plot No.64, Pillayar Koil Street, Tharamani at



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Chennai. The said property originally belonged to one R.C.Selvaraj. Thereafter, it appears that a Will had been produced as if the said R.C.Selvaraj had bequeathed the property to one K.Saradha. Placing rights on the basis of the said Will which incidentally was unregistered, a Suit came to be filed in O.S.No.4568/2012 before the learned XI Judge, City Civil Court at Chennai. This Suit was instituted by the said Saradha. Pending the Suit, she died. Thereafter, the petitioners 1 to 3 had filed an application seeking to bring themselves on record as legal heirs of the said Saradha. Claiming that the Will which had been produced by the said Saradha, was a forged Will, the present complaint which is now sought to be quashed, had been filed by the respondents. They also alleged the commission of the offences aforementioned.

- (4) The Suit went through its normal course and was dismissed on 31.07.2017. Thereafter, an Appeal had been filed in A.S.No.85/2017 which also came to be dismissed on 09.09.2019 with cost by the learned Principal Judge, City Civil Court, Chennai.
- (5) I am also informed that in C.C.No.3369/2015, trial has commenced and PW1 has let in the evidence and has to be cross examined. The matter is now posted to 05.10.2021 for cross examination of PW.1.
- (6) Let the parties go back to the Trial Court and let the Magistrate also take into consideration the fact that the present petitioners/accused claim rights only as legal heirs of Saradha who had produced the said Will before the Civil Court and claimed the rights under the said Will. That fact may be appreciated in its proper perspective by the learned Magistrate. Quite apart from that, I am informed that the 4th petitioner/A4 is the wife of the 1st petitioner/A1. She had no direct role to play either in the preparation of the Will or taking advantage of any of the terms under the Will or taking advantage of the fact that if the Will stands proved, Saradha would get the property. She is only the daughter-in-law of the family and not a direct legal heir of Saradha. Her husband is A1. Therefore, proceedings are quashed as against the 4th petitioner/A4. But, let trial proceed as against petitioners 1 to 3/A1 to A3 and an obligation is placed on them to participate in the trial proceedings. Let the trial proceed in the manner known to law.
- (7) With the said observation, the Criminal Original Petition is Partly Allowed with respect to the 4th petitioner/A4,



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quashing the proceedings in CC.No.3369/2015 insofar as the 4th petitioner/A4 is concerned. However, the present petition is dismissed with respect to petitioners 1 to 3 / A1 to A3, who should necessarily have to face trial. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

CDA/AP

To

XVIII Metropolitan Magistrate,
Saidapet, Chennai.

+1CC to Mr.M.Sarfudeen Ali Ahamed, Advocate, Sr.No.48434
+1CC to Mr.K.Basker, Advocate, Sr.No.48379

Cr1.OP.No.29219/2015

NMI (CO)
K.RK. (12.10.2021)