



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.10.2021

CORAM:

THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

CRL.O.P.No.18648 of 2021

and

Crl.M.P.No.10257 of 2021

Nirmal Kumar

...Petitioner

Vs

The Inspector of Police,
Anti Land Grabbing Special Cell,
Kancheepuram District.

.... Respondent

PRAYER: Criminal Original Petition has been filed under Section 482 of the Code of Criminal Procedure to direct the respondent to conduct further investigation under Section 173(8) Cr.P.C. in C.C.No.101 of 2018 pending on the file of the learned Magistrate - II, Chengalpattu District and submit such report or reports in this case.

For Petitioner : Mr.R.Sathishkumar

For Respondent : Mr.A.Damodaran
Addl.Public Prosecutor.

ORDER

The petitioner, who is the 4th accused in C.C.No.101 of 2018 facing trial for offences under Sections 419, 465, 468, 471, 420 r/w 34 of IPC, has filed this petition seeking further investigation.

2.The primary concern of the petitioner/defacto complainant is that when he verified the encumbrance certificate dated 26.03.2015, he came to know the forgery committed and fraudulent act of the accused. The forged power of attorney dated 30.06.2010, registered as Document No.762 of 2010 in Joint II Sub Registrar, Chengalpattu, has been created by the partner of the defacto complainant in collusion with his friends and thereby, using the same, a sale deed has been created. This fact is also averred in the civil suit filed by the defacto complainant in O.S.No.190 of 2015 in the plaint at paragraph - 6, wherein, it has been clearly stated that with the help of SRO, such forged document had been created. The SRO, at that



point of time, is one Kasthuribai. The said Kasthuribai, against whom, specific allegation and specific overt act is attributed in commission of forgery, no action has been taken by the respondent police. The said Kasthuribai is neither an accused nor a witness and no reason has been given by the respondent police, for what reason, the said Kasthuribai has not been examined as witness or arrayed as an accused.

3.The learned Additional Public Prosecutor submits that in this case, there are totally seven accused. The offence is of the year 2015. After investigation, charge sheet has been filed in the year 2018. In the charge sheet, there are totally 12 witnesses listed, of which, LW7 Dhanumurthy is the SRO of the Chengalpattu Registration Office, who speaks about the forged document viz, document No.762 of 2010 and there are other witnesses, who clearly speak about the overt act of each of the accused. As regards Kasthuribai SRO, she has only in her official capacity, acted and for which, LW7 the subsequent successor SRO is examined. He further submits that in this case, one or the other accused are filing discharge petition and protracting the proceedings. This petition is yet another ploy to further drag on the proceedings.

4.Considering the submissions and on perusal of the materials, it is seen that though the petitioner has got right at this stage even if he is an accused, to seek further investigation, this Court finds that now directing further investigation would only drag on the proceedings. The allegations made by the petitioner are already recorded in the document and it is for the petitioner to raise all these points during examination of witnesses in the trial and thereafter, if he is able to make out a case against the concerned SRO viz., Kasthuribai, the petitioner is at liberty to file a 319 Cr.P.C and to add additional accused, who is involved in this case. During the trial, the trial Court decides on materials brought by the petitioner and other accused about the involvement of others in the commission of the offence.

5.Recording the same, the criminal original petition is disposed of. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS-VIII)

//True Copy//

Sub Assistant Registrar

sms



To

1. The learned Magistrate - II,
Chengalpattu District.

2. The Inspector of Police,
Anti Land Grabbing Special Cell,
Kancheepuram District.

3. The Public Prosecutor,
High Court, Madras.

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KG(CO)
SB(01/12/2021)