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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.10.2021

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THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

CRL.O.P.NO.18673 OF 2021

AND

CRL.M.P.NOS.10268 & 10269 OF 2021

Sasikala

... Petitioner

Vs.

1. The State rep. by
The Inspector of Police,
District Crime Branch,
(Anti Land Grabbing Special Cell),
Thiruvallur, Thiruvallur District,
(Crime No.33 of 2012).

2. Sampathkumar

... Respondents

PRAYER:-

Criminal Original Petition is filed under Section 482 of the Code of Criminal Procedure, to call for the records pending on the file of the learned Judicial Magistrate, Tiruttani, Thiruvallur District in C.C.No.4 of 2021 and quash the Criminal Proceeding.

For Petitioner : Mr.E.Kannadasan

For R1 : Mr.A.Damodaran
Additional Public Prosecutor

O R D E R

This Criminal Original Petition is filed to call for the records pending on the file of the Judicial Magistrate Court, Tiruttani, Thiruvallur District in C.C.No.4 of 2021 and quash the Criminal Proceeding.

2. The petitioner is A4 in C.C.No.4 of 2021, facing trial for offence under Sections 419, 420, 423, 465, 468, 471 & 294 (b), 506(i) IPC r/w 120(B) IPC has filed this quash petition.



3. The contention of the petitioner is that there are totally four accused in this case. A1 Perumal having right to sell the property, in the year 2008, sold a property to the petitioner's husband in Survey No.140 to the extent of 7 acres 05 cents situated at Venugopalapuram, Thiruvalangadu, Tiruttani Taluk, Thiruvallur District. The said Perumal had sold the property based on the Power of Attorney dated 13.12.2006, obtained from Kondareddy, Govindareddy, Desappareddy and Chinnaamy reddy, vide sale deed No.9425/2008, dated 14.11.2008. Thereafter the property was developed as Eshwari Nagar, lay out drawn in the name of Eshwari Nagar and several persons purchased the property.

4. Except for being the wife of the A1, the petitioner got nothing to do with any of the transaction. On 01.05.1969, the Government published in the Official Gazette, in which it was mentioned that the Survey No.40 measuring to an extent of 7 acres and 50 cents belongs to the Forest Department. On 01.03.2021, the Government rectified the earlier mistake and published the new Gazette mentioned that the survey No. as 140 to the extent of 7 acres 50 cents instead of the Survey No.40 to the extent of 5 acres 3 cents. Now the Forest Department claims that the property and the Survey No. were wrongly mentioned and they have also taken steps to recover the property. As regards this petitioner is concerned, she has been projected as accused, as she is the wife of A2 and through A2 the entire transaction had been taken place.

5. The learned Additional Public Prosecutor submits that the Government Forest Land are attempted to be taken away by the petitioner and other accused. The Forest Land i.e. 7 acres and 5 cents have been converted as lay out. A1 using the forged Power of Attorney had executed the sale deed in favour of A2 vide Document No.9425/2008, using the same lay out has been laid, plots were sold to several persons. The petitioner along with A3 had been used as an instrument in the Eshwari Nagar in the sale of plots. The petitioner cannot be separated and viewed, she moved with A2, projecting them as Government Servants and received money. Witnesses clearly stated about the money paid to A2, A3 and A4. During the investigation, the active role of the petitioner is found. Thereafter, final report filed along with the listed witnesses and documents before the Lower Court.

6. The lower Court on perusal of the final report found that prima facie case is made out, taken the case on file. The case has been registered in the year 2012 and for the past nine years the accused in this case successfully delayed the progress of the case. Only in the year 2021, charge sheet could be filed. He further submits that it is a case of conspiracy. From the



circumstances, it can be inferred and seen only during the trial.

7. Considering the rival submissions and on perusal of materials, this Court finds that the points raised by the learned counsel appearing for the petitioner are factual in nature, for the charge of conspiracy, it is to be inferred from the circumstances and through the evidence of witnesses and at this stage, it cannot not be inferred.

8. The learned counsel appearing for the petitioner submits that the petitioner is a lady and her personal appearance to be exempted.

9. Considering that the petitioner is a lady, this Court directs the lower court to consider the petition filed by the petitioner under Section 317 Cr.P.C., or 205 Cr.P.C. after obtaining affidavit from the petitioner that she shall cooperate with the trial and shall not be a reason for any delay of the trial, shall not dispute the evidence recorded in her absence and no cross examination would be delayed. The petitioner counsel would continue with the trial without any delay and the petitioner shall not dispute her identity and the petitioner shall appear before the lower Court on the date of receiving the copies, charges framing, questioning under Section 313 Cr.P.C. and during Judgment. Further shall appear before the trial Court as and when the presence of the petitioner is required.

10. Accordingly, this Criminal Original Petition stands dismissed. Consequently, the connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

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To

1. The Judicial Magistrate,
Tiruttani, Thiruvallur District.
2. The Inspector of Police,
District Crime Branch,
(Anti Land Grabbing Special Cell),
Thiruvallur, Thiruvallur District.



3. The Public Prosecutor,
High Court, Madras.

+1cc to Mr.E.Kannadasan, Advocate, S.R.No.55340

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CRL.M.P.NOS.10268 & 10269 OF 2021

PM(CO)
PBS/02/12/2021