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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.11.2021

CORAM:

THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

CRL.O.P.No.18472 of 2021

and

CRL.M.P.Nos.10131 & 10132 of 2021

J.R.Shanmugam

... Petitioner/6th Accused

Versus

1. State by
The Inspector of Police
District Crime Branch
(Land Grabbing Cases)
Special Cell Namakkal
Namakkal District.
(Crime No.37/2012)

2.Palaniappan

... Respondents/Complainant/
Defacto Complainant

PRAYER: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to call for the entire records pertaining to the C.C.No.15 of 2021 on the file of the Judicial Magistrate, Paramathi and quash the same.

For Petitioner : Mr.S.Venkidusamy

For Respondent : Mr.A.Damodaran for R1
Additional Public Prosecutor

O R D E R

The Criminal Original Petition has been filed to call for the entire records pertaining to the C.C.No.15 of 2021 on the file of the Judicial Magistrate, Paramathi and quash the same.

2. The petitioner/A6 in C.C.No.15 of 2021 who is



facing trial, for the offence under Sections 467, 468, 471, 467 r/w 109, 468 r/w 109 IPC, has filed this quash application.

3. The contention of the petitioner is that he is a Senior Citizen aged about around 73 years and he is a Notary Advocate for the past 47 years. He has been arrayed as an accused in this case, for the reason, he has notarized a document which has been produced by the other accused and he has attested the same on 22.04.2011.

4. The case of the prosecution is that on 22.04.2011 the said document could not have come into existence because this document was released by the treasury on 07.10.2011. He further submitted that the petitioner as an Advocate had only attested the document and nothing more. He has got no knowledge about the transaction or with regard to the other accused in this case.

5. The learned Additional Public Prosecutor has submitted that in this case, at Rs.20 Non-Judicial Stamp Papers in Doc.No.69AA680116 has been attested by the petitioner on 22.04.2011 and the document is dated 20.04.2011. On the contrary, it was released by the treasury only on 07.10.2011 which clearly prove that it is pre dated and also signed by the petitioner as a notary. It is clear conspiracy with the other accused to usurp the temple property valued around several crores.

6. The learned counsel for the petitioner at this point of time referred to the statement of the District Sub Registrar, viz., Ramesh/LW9 who in his statement has stated that there is a registered entry dated 25.01.2011 that the disputed stamp papers had been sold to one Dhanush, Erode and hence, the stamp papers could have been already in existence.

7. The Additional Public Prosecutor submitted that the vendor of the disputed stamp papers, viz., Jaisingh, Sathankulam had received the stamp papers only on 07.10.2011. Hence, the petitioner's contention that the stamp papers were already in existence cannot be accepted. If for argument sake, the stamp papers referred by the petitioner had been sold to stamp vendor viz., Dhanush, Erode, then it would clearly prove that the petitioner had signed and notarized a pre dated document.

8. This Court finds that in a quash petition, the disputed facts cannot be looked into and it has to be decided during trial on examination of witnesses and perusal of the documents. Hence, this Court is not inclined to entertain this petition.



9. It is made clear that the above observation is only for the purpose of disposal of the above petition and the trial Court to independently decide the contention of the petitioner, on its own merits.

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10. Accordingly, this Criminal Original Petition is dismissed. Consequently, connected Miscellaneous Petitions are also closed.

Sd/-
Assistant Registrar (CS-III)

//True Copy//

Sub Assistant Registrar

dna

To

1. Judicial Magistrate, Paramathi
2. The Inspector of Police
District Crime Branch
(Land Grabbing Cases)
Special Cell Namakkal
Namakkal District.
(Crime No.37/2012)
3. The Public Prosecutor,
High Court, Madras.

CRL.O.P.No.18472 of 2021
and
CRL.M.P.Nos.10131 &
10132 of 2021

NMI (CO)
SU(26/11/2021)