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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.10.2021

CORAM:

The Hon'ble Mr. Justice Krishnan Ramasamy

Crl.O.P.No.8837 of 2017

and

Crl.M.P.No.6340 of 2017

J.Bhuvaneswari

..Petitioner/2nd Accused

Vs

1.State Represented by,
The Inspector of Police,
Selaiyur Police Station,
Chennai 600 073.
(Crime No.684 of 2010)

..1st Respondent/Complainant

2. S.Ramesh

..2nd Respondent/Defacto Complainant

Prayer : Petition filed under Section 482 of Code of Criminal Procedure to call for the records in C.C.No.644 of 2011 on the file of Judicial Magistrate Court, Tambaram and quash the Charge Sheet in so far as the petitioner is concerned.

For Petitioner : W.Camyles Gandhi

For Respondents : Mr.S.Ramesh, Name printed
No appearance

O R D E R

This Criminal Original Petition has been filed, seeking to quash the proceedings in C.C.No.644 of 2011 on the file of Judicial Magistrate Court, Tambaram in so far as the petitioner is concerned.

2. The learned counsel appearing for the petitioner submits that the petitioner is arrayed as accused (A2) in the Charge sheet, who is none other than the wife of the accused (A1). The main allegation of the defacto complainant is that he has lent a sum of Rs.55,00,000/- to the husband of the petitioner/accused (A1), who agreed to sell the house property to the defacto complainant.



3. According to the defacto complainant, he has lent money to A1 as he was in need of money for his business in the partnership firm. In consideration, the petitioner has agreed to sell the house property in the name of the defacto complainant and received a sum of Rs.55,00,000/-. The learned counsel appearing for the petitioner submits that there was no documentary proof to show that the petitioner and her husband have received the money. Even an ordinary man would not lend such a huge sum of Rs. 55,00,000/- without any document or obtaining any proof thereof. That apart, the petitioner is the wife of 1st accused and she is no way connected with the business of the partnership firm and her name is unnecessarily included in the charge sheet. The learned counsel submits that the proceedings in C.C.No.644 of 2011 are liable to be quashed since no substantial allegation is levelled against her either in the complaint, FIR or in the Charge Sheet.

4. Per contra Mr.L.Baskaran, learned Govt. Advocate (Crl.Side) submits that the petitioner was also one of the parties to the crime and on the receipt of the money, she along with her husband (A1) informed that the subject house property was in the name of her father and there is sufficient material evidence available towards receipt of money from the defacto complainant since he paid the amount in the presence of two witnesses, viz., Raghu and Karikalan. He would point out that the contentions raised by the petitioner that she has been falsely implicated and no substantial allegations has been levelled against her and she had not received any amount from the defacto complainant, etc., cannot be probed at this stage and the same are required to be examined and decided during the full-fledged trial. Therefore, he sought for dismissal of the present petition.

5. Heard the learned counsel for the petitioner and the respondent and perused the materials available on record.

6. A perusal of the Charge Sheet, FIR and 161 Cr.P.C. Statement of Witnesses, viz., Mr.Karikalan and Mr.Raghu would clearly reveals that there are averments against the petitioner since they made specific statement that the money was handed over by the defacto complainant to the petitioner (A1) and A2 towards advance for the sale of house property. All these averments would be proved only during the full-fledged trial and at the threshold in 482 Cr.P.C. proceedings, this Court cannot go into all these aspects and decide the matter. Therefore, this Court is not inclined to entertain this petition and invoke the inherent power under Section 482 Cr.P.C. to quash the proceedings pending against the petitioner.



7. The learned counsel appearing for the petitioner submits that petitioner being a lady, her presence may be dispensed with. But this Court cannot pass any such order in the present petition filed. However, liberty is granted to the petitioner to work out her remedy by filing appropriate petition before the Court below.

8. For the foregoing reasons, this Criminal Original Petition stands dismissed. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

jd/sp

To

1.The Judicial Magistrate,
Tambaram.

2.The Inspector of Police,
Selaiyur Police Station,
Chennai 600 073.

3.The Public Prosecutor,
High Court, Madras.

+1cc to M/s.A.Bharathi, Advocate Sr No.56321

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SJ (CO)
PR (23/11/2021)