



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:08.09.2021

CORAM

THE HON'BLE Mr. JUSTICE C.V.KARTHIKEYAN

Cr1.O.P.No.14999 of 2017
and Cr1.M.P.No.9464 of 2017

Devadoss Reddy

.. Petitioner/Petitioner/Petitioner/Accused

Vs.

1. State rep. By
The Inspector of Police,
CBCID,
Tiruvallur District,
Tiruvallur.

.. Respondent/Respondent/Respondent/Complainant

2. S.Vivek

(R2 is impleaded as per the orders
in Cr1.M.P.No.10550 of 2019 in
Cr1.O.P.No.14999 of 2017, dated 01.08.2019)

.. 2nd Respondent

Prayer: Criminal Original Petition filed under Section 482 Cr.P.C., to set aside the order passed by the learned I Additional Sessions Judge, Tiruvallur in Cr1.R.P.No.12 of 2015 confirming the order passed in C.M.P.No.5307 of 2014 in C.C.No.102 of 2013 on the file of learned Judicial Magistrate, Tiruvallur.

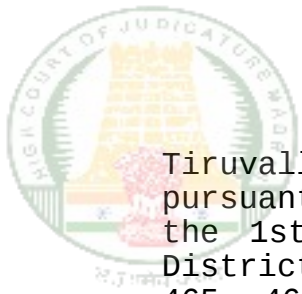
For Petitioner .. Mr.S.Parthasarathy
For R1 .. Mr.E.Raj Thilak
Government Advocate (Criminal Side)

For R2 .. Mr.R.Krishna Kumar

ORDER

Heard Mr.S.Parthasarathy, learned counsel for the petitioner, Mr.E.Raj Thilak, Government Advocate (Criminal Side) for the first respondent and Mr.R.Krishna Kumar for R2/de facto complainant.

2. The petitioner herein is A1 in C.C.No.102 of 2013 now pending on the file of the learned Judicial Magistrate No.I,



Tiruvallur. The said Calendar Case has been taken cognizance pursuant to the complaint in F.I.R.No.277 of 2010 registered by the 1st respondent/the Inspector of Police, CBCID, Tiruvallur District, Tiruvallur for the offences under Sections 120-B, 420, 465, 468, 471 of I.P.C. It is the case of the prosecution that the third accused, Kasi Nadar, in order to grab 87 cents of land of one Senjammal, had created a Will and got it registered at the Sub-Registrar Office, Thiruvottiyur, vide document No.12 of 1978, dated 17.04.1978. Thereafter, he also obtained a legal heirs certificate from the Tahsildar, Ambathur, by furnishing false information and death certificate was also created with respect to said Senjammal wherein he had shown that Senjammal had expired on 07.05.1993 at Stanley Hospital, Chennai. The actual name of the mother of Kasi Nadar was Thangammal.

3. It is stated that with the said documents, A3 had executed a family gift settlement deeds vide document Nos.1845 of 2000 and 1846 of 2000, dated 19.04.2000 to his legal heirs who have been therein as A4 to A8. They executed a Power of Attorney in favour of Balusubaramaniam, A9, which was already registered at Sub-Registrar Office, Thiruvottiyur on 19.06.2000. A9 had sold the property to A10 vide document No.2928 of 2002 dated 23.02.2002. Thereafter, the present petitioner had sold the property to A2. The present petitioner is A1. He had filed an application seeking discharge in C.M.P.No.5307 of 2014 which came up for consideration before the learned Judicial Magistrate No.I, Tiruvallur on 01.07.2015. Learned Magistrate had held that prima facie case had been made out and it can be determined whether conspiracy has been established or not only after trial. It has been stated that the voice of the prosecution cannot be throttled at the preliminary stage.

4. As against the said order, the petitioner herein had filed Crl.R.P.No.12 of 2015 before the 1st Addl. Sessions Court at Tiruvallur and by an order, dated 29.06.2017, the said Revision Petition was also dismissed. Questioning that particular order, the present petition has been filed seeking interference. As seen from the narration of facts, the petitioner was one vital link in a series of transactions which commenced from obtaining false documents with respect to Senjammal and claiming that A3 is legal heir of Senjammal, whereas, the name of mother of Kasi Nadar is Thangammal. This will have to be examined as one whole attempt to defraud Senjammal of her property. Therefore, trial is required and trial is the only answer to the entire charge laid against the petitioner herein.

5. I am also informed that the matter is now pending for the past nearly eight years. Therefore, a direction is given to the learned Judicial Magistrate No.1, Tiruvallur, that whenever trial is commenced in C.C.No.102 of 2013, it should be conducted



on a day to day basis. Even if that is not practically possible, the learned Judicial Magistrate can grant a maximum of three working days in between any two adjournments and should not grant more than two adjournments for the very same reason. If any of the accused do not cooperate in conducting the trial, then the learned Judicial Magistrate No.1, Tiruvallur is at liberty to exercise the power under Section 309 of Cr.P.C., and if the accused are on bail interfere with such order and therefore, it would be in their interest to participate in the trial proceedings. The prosecution agency is also directed to ensure that all the witnesses are available for examination.

6. In view of the above directions, the learned Judicial Magistrate No.1, Tiruvallur, may post the matter in the first instance for deciding the schedule for the trial in the presence of the counsels for the accused and in the presence of the prosecution and thereafter a schedule for the trial should be prepared in the aforesaid manner.

7. With the above observations, the Criminal Original Petition is dismissed. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar (CS-III)

// True Copy //

Sub Assistant Registrar

grs/kbs

To

1. The I Additional Sessions Judge,
Tiruvallur.
2. The Judicial Magistrate No.1, Tiruvallur.
3. The Inspector of Police,
CBCID,
Tiruvallur District,
Tiruvallur.
4. The Public Prosecutor, High Court, Madras.

Copy to

The Section Officer,
Criminal side Record,
Madras High Court, Madras.



+1CC to Mr.S.Partha Saraathy, Advocate, SR.No. 45732
+1CC to Mr.R.Krishna Kumar, Advocate, SR.No. 46203

WEB COPY

NR(CO)
B.VC (29/09/2021)

Cr1.O.P.No.14999 of 2017
and Cr1.M.P.No.9464 of 2017