



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 09.11.2021

CORAM:

THE HONOURABLE MR.JUSTICE N. SATHISH KUMAR

CrI. O.P. No. 17196 of 2017
and
CrI.M.P.No. 10529 of 2017

A.Sureshkumar

...Petitioner/Accused 4

Versus

1. The State represented by,
The Inspector of Police,
City Crime Branch, Tiruppur City,
Tiruppur District.
(Crime No.18 of 2017)

2. V.E.Selvi

...Respondents/Complainant

PRAYER : This Criminal Original Petition was filed under Section 482 of Cr.P.C. to call for the records relating to the FIR in Crime No.18 of 2017, on the file of the 1st Respondent Police and quash the same.

For Petitioners: M/s.N.Manokaran

For Respondents: Mr.S.Vinoth Kumar
for Public Prosecutor for R1

: Mr.M.Balachandar
for R2

ORDER

This original petition has been filed to quash the FIR in Crime No.18 of 2017, on the file of the 1st Respondent Police.

2.This petition is filed to quash the First Information Report as against the 4th accused for the various offenses under Sections 120B, 468 and 471 IPC. The crux of the allegation is that A2 being the power agent of the defacto complainant has obtained Life Certificate fraudulently from the Government Doctor and registered the document in favour of the A3. The further allegations of the defacto complainant is that he never appeared before the doctor and the doctor has given the life certificate in contrary to the I.G. Circular. Therefore, it is



his contention that the petitioner in connivance with the other accused and registered the document which was under valued, despite the previous document is pending for registration, subsequent document has been registered. Hence it is the contention of the defacto complainant is that, the the present petitioner has also committed an offence.

3.Mr.Manokaran appearing for the petitioner submitted that the enquiry conducted by the Inspector General makes it clear that the doctor has failed to affix his signature on the photograph in the life certificate is only mistake and is a dereliction of duty and not intentional. It is his submission that the petitioner registered the document based on the Life Certificate produced and power deed is in existence and has not been canceled. The suit filed by the parties in respect of the properties is already pending in O.S.No.256 of 2015. Such being the position, the petitioner herein cannot be prosecuted for the alleged offense and culpability cannot be fastened on him. Hence prayed for quashing the complaint against the present petitioner/4th accused.

4.The learned counsel appearing for the respondent submitted that the defacto complainant never appeared before the doctor for Life Certificate and the doctor has not signed on the Photograph and despite the same the petitioner/4th accused has registered the document which is also under valued and when previous document is pending, subsequent document has been registered. The same clearly indicate that there is collusion between the petitioner and the other accused. Therefore, allegations are very serious in nature and at this stage the FIR cannot be quashed against the petitioner.

5.Pursued the entire records. The the main dispute appears with regard to the sale of the property on the strength of the general power of attorney executed by the defacto complainant in favour of the accused No.2. Based on the above power of attorney the sale deed has been executed by A2 in favour of A3 on 27.02.2015 and on 22.05.2015 A3 in turn sold the property to one T.R.Sivaram. The allegation that the photo do not contain signature of the Doctor, it was stated that the same was enquired by the Assistant Inspector General Cadre and in his findings held that omitting to put the signature in the life Certificate on the Photograph by the doctor is a clear case of dereliction of the duty and not an intentional one. Be that as it may be.

6.It is the main contention of the defacto complainant that she has been never appeared before the doctor for obtaining Life Certificate and photograph has been affixed later only for the purpose of registering the document. It is to be noted that 4th



accused Sub Registrar has registered the document. It is not the case of the defacto complainant that the Power of Attorney has never been executed. The only dispute is with regard to the Life Certificate said to have been obtained by the A2. Even assuming that such contentions appear to be true, the A4 is no way connected with A2 and he has just registered the document and also kept pending the same. The endorsement in the document also indicate that the Deputy Registrar has passed adjudication order for recovery of deficit Stamp duty and Stamp duty appears to have been paid. The endorsement is also available in the document filed in page No.50 of the typed set and the deficit stamp duty paid is also found in the endorsement and in fact, the document was referred under section 47A of the Stamp Act. Such being the position, merely because the 4th accused / petitioner registered the document, when the documents are presented for registration, culpability cannot be fastened against the petitioner.

7. The entire allegations in the FIR even taken on its face value as proved, this Court is of the view that same will not lead to constitute any offense against the petitioner/ A4. The only role of the petitioner/A4 was that he discharged his official duty by registering the document when the power of attorney and the Life Certificate were produced. It is not the case that he has also appeared before the doctor and created the Life Certificate. Such being the position, continuance of prosecution against the petitioner/A4 is nothing but futile exercise and clear abuse of process of law. It is also to be noted that suit has also filed assailing the sale deed. Such being the position, the petitioner/ A4, who discharged his official duty cannot be prosecuted.

8. Accordingly, FIR is quashed as against the petitioner/ A4 alone and this petition is allowed. In respect of other accused, the investigation shall be conducted and the investigation be completed expeditiously and the final report to be filed within a period of six (6) months before the concerned Court. Consequently, connected Miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS-II)

//True Copy//

Sub Assistant Registrar

vrc/psa



To

1. The Inspector of Police,
City Crime Branch,
Tiruppur City,
Tiruppur District.

2. The Public Prosecutor,
High Court, Madras - 104.

+lcc to Mr.N.Manokaran, Advocate, S.R.No.57976

CrI. O.P. No. 17196 of 2017
and
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GPL(CO)
RGA(29/11/2021)