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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.12.2021

CORAM

THE HON'BLE MR.JUSTICE N.SATHISH KUMAR

CrI.O.P.No.27558 of 2017

and

CrI.M.P.Nos.15741 & 15742 of 2017

1. S.Ramachandran
2. D.Baskar @ Baskaran
3. B.Devi ... Petitioners/Accused [A1 to A3]

Vs

1. The State rep. by
The Inspector of Police,
Chetpet Police Station,
Thiruvannamalai District. ... 1st Respondent/Complainant
2. S.Sampath ... Respondents/Defacto Complainant

PRAYER: Criminal Original Petition filed under Section 482 of Criminal Procedure Code, to call for the records relating to the case in C.C.No.190 of 2017 on the file of the learned Judicial Magistrate, Polur and quash the same.

For Petitioners : Mr.V.R.Appaswamee

For Respondents : R1 - Mr.S.Vinoth Kumar,
Government Advocate(Criminal Side)
R2 - No appearance

O R D E R

This petition has been filed to quash the charge sheet in C.C.No.190 of 2017 on the file of the learned Judicial Magistrate, Polur against the petitioners for the offences punishable under Sections 120B, 420, 423, 465, 468 & 471 of I.P.C.

2. The crux of the allegation is that A1, the defacto complainant Sampath Kumar and his wife purchased the property jointly in an extent of Ac.01.28 cents on 22.03.2012. After purchase, one of the purchasers, Pushpa, wife of the defacto complainant executed settlement in respect of Ac.0.04 Cents in



favour of her son and another joint purchaser S.Ramachandran executed a Power of Attorney in respect of Ac.0.42 Cents. When the matter stood thus, on 12.02.2014, the accused created a document namely Koor Chit as if the properties have been partitioned among themselves. Pursuant to the partition, A1 executed a Power of Attorney in favour of A2 and A2 sold the property in favour of A3, thereby, committed an offence.

3. Learned Counsel for the petitioners submitted that the entire case is nothing but abuse of process of law. The so called alleged forgery has been pressed into service only to file a criminal complaint. The alleged Koor Chit signed by all the parties. In fact, while executing the settlement by the defacto complainant, he himself admitted the existence of Koor Chit dated 12.02.2014. Therefore, the alleged forgery had not been made out and there is no ingredient of making of false document and cheating. Therefore, all other offences also had not been made out under Section 120B and no such threat had been made for offence under Section 506(i) of I.P.C.also. No evidence is available on record.

4. Heard both the counsels. Perused the CD file.

5. As per the information report, seven accused were added. The Investigation Officers while filing final report has found that the contention of the defacto complainant that he does not know about the existence of the partition agreement namely Koor Chit is highly improbable; he has not handed over the originals and xerox copies; other accused have been implicated due to the business rivalry and omitted some other accused. The materials collected by the prosecution do not show that the alleged document Koor Chit dated 12.02.2014 was subjected to the forensic examination to show that document has been created.

6. It is relevant to note that the defacto complainant himself executed a settlement deed on 06.02.2015 in favour of his son and daughter wherein he has clearly admitted the execution of document namely Koor Chit dated 12.02.2014 and he has admitted in the settlement deed and that pursuant to the above partition, he became the owner of the property, thereby, he gifted property to his children.

7. The learned Counsel for the petitioners also brought to the notice of this Court that the above document has been presented before the Sub Registrar Office. The endorsement has also made, thumb impression is also obtained. When the document was pending, he had withdrawn the document and this is also proved in the RTI reply. After withdrawing the document, the present complaint has been filed.



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8. RTI reply annexed in the typed set clearly indicates that the Settlement Deed presented by the defacto complainant has been presented on 06.02.2015 for registration of Settlement Deed and kept in pending document No.P9 of 2015. Then, he has withdrawn the document from the Sub Registrar Office. Thereafter, the present F.I.R. has been lodged and the Investigation Officer report clearly indicate that there are no materials to prove the forgery. In such view of the matter, continuing the prosecution and forcing the petitioner to undergo the ordeal of the trial is nothing but abuse of process of law.

9. Accordingly, the charge sheet in C.C.No.190 of 2017 on the file of the learned Judicial Magistrate, Polur against the petitioners for the offences punishable under Sections 120B, 420, 423, 465, 468 & 471 of I.P.C. is quashed.

In the result, the Criminal Original Petition is ordered. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS-VII)

//True Copy//

Sub Assistant Registrar

ggs / kbs

To

1. The Judicial Magistrate,
Polur, Thiruvannamalai District.
2. The Inspector of Police,
Chetpet Police Station,
Thiruvannamalai District.
3. The Additional Public Prosecutor,
High Court, Madras.

Copy to:

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

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NR(CO)
SU(05/01/2022)