



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 22.06.2021

CORAM

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

CrI.O.P(MD)No.12968 of 2017

and

CrI.M.P(MD)Nos.8835 and 8836 of 2017

WEB COPY

M.Vincent Mathew

... Petitioner /Accused No.3

Vs

1.The State represented by
the Inspector of Police,
District Crime Branch,
Tirunelveli,
[Crime No.20 of 2009]

... 1st Respondent / complainant

2.John S Joseph

... 2nd Respondent / *defacto*
complainant

Prayer: Petition filed under Section 482 of the Criminal Procedure Code, to call for the records pertaining to the C.C.No.231 of 2014, pending on the file of the learned Chief Judicial Magistrate, Tirunelveli and quash the proceedings as against the petitioners herein.

For Petitioner : No representation

For Respondent : Mr.S.Ravi,

No.1

Standing Counsel for the State

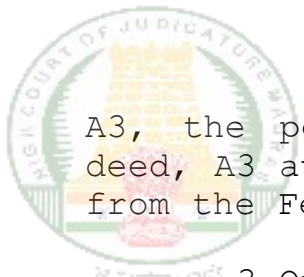
For Respondent : Mr.A.Siva Subramanian

No.2

ORDER

This petition is filed by accused No.3 in C.C.No.231 of 2014 pending on the file of the learned Judicial Magistrate, Tirunelveli to quash the proceedings pending against him. The respondent Police filed the final report as against this petitioner and 10 others for the offence under Sections 465, 467, 468, 419, 420 and 471 r /w 34 IPC.

2.The case of the prosecution is that A1, A2, A3 and A11 are close friends and associated with A4 to A10. A3 was having account in the Federal Bank, Ernakulam North Branch, Banerji Road, Cochin of Kerala State. The *defacto* complainant's brother one George P. Joseph was having lands to an extent of 308 Acres at Anaikarai, Urumankulam Village, Radhapuram Taluk, Tirunelveli District. A1 along with A2, A4 to A11 created forged power of attorney with regard to the said lands and sold the property to



A3, the petitioner herein. In the strength of the forged sale deed, A3 availed agricultural loan to the tune of rupees one crore from the Federal Bank Limited, Ernakulam.

3. On the complaint of the *defacto* complainant, a case was registered in Crime No.20 of 2009 and the respondent Police, after investigation filed the final report as against the accused for the aforesaid offences. The petitioner /A3 has filed this present quash petition on the grounds that

a. the learned Chief Judicial Magistrate ought not to have taken cognizance as against the petitioner in respect of alleged offences under Section 120-B, 465, 467, 468, 420 IPC and Section 34 IPC.

b. no specific averments had been mentioned to attract the above said offences as against the petitioner.

c. there are material contradictions in the FIR as well as in the final report.

d. it is admitted by the *defacto* complainant that all the accused have sold the property to the petitioner and the petitioner is a *bona fide* purchaser.

e. implicating the petitioner in this case is only to harass him.

f. in the complaint given by the second respondent, there is no averment as against the petitioner and no allegation was stated by the second respondent.

g. the petitioner pledged the property in question and his own property also. If he is intended to make a fraudulent transaction, he would not pledge his property along with the said disputed properties.

h. there is not even a *prima facie* case made out warranting the full trial of the case.

4. Though this quash petition has been filed in the year 2017, the matter stood adjourned at the request of the petitioner and notice was ordered on 05.08.2020. The second respondent / *defacto* complainant has also appeared through Mr.A.Sivasubramaniam, learned Counsel and he submitted that the petitioner is the main accused and he along with other accused has committed the offence and in view of the pendency of this criminal original petition, the trial in C.C.No.231 of 2014 has not proceeded further before the trial Court.

5. It is seen from records that there has been no representation for the petitioner continuously in the past several hearings, i.e., on 02.06.2021, 29.04.2021, 27.04.2021, 26.04.2021 and 23.04.2021. Since in the last hearing on 15.06.2021 also, there was no representation for the petitioner, the matter was directed to be posted under the caption 'For dismissal' today. Although the matter is listed under the caption 'For dismissal' today, there was no representation for the petitioner, when the



matter was called at 3.00 pm. Therefore, the matter was passed over and called again at 4.00 pm. However, there was no representation for the petitioner. This petition has been filed in the year 2017 and keeping the matter pending without any progress, will not serve any purpose and therefore, this Court proceeds with the case based on the materials placed on record before this Court.

6. In this case on hand, the offence has taken place in the year 2007. Based on the forged document the accused have obtained agricultural loan to the tune of rupees one crore from a Bank. The final report has been filed on 21.04.2010. This petitioner / accused No.3 alone has filed the quash petition in the year 2017 and the petitioner, having filed the petition, has also taken several adjournments periodically and even there was no representation for the petitioner on several hearings. The grounds raised by the petitioner do not make out any *prima facie* case to maintain this quash petition and therefore, this quash petition is dismissed. Since the offence in this case has been committed in the year 2007, there is every possibility of availability of witness and therefore, the trial Court is directed to proceed with the trial on day to day basis and conclude the same within a period of six months from the date of receipt of a copy of this order. Consequently, connected miscellaneous petitions are also dismissed.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

/ /2021

Sub Assistant Registrar (CS)

dsk

NOTE: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.



To

1.The Chief Judicial Magistrate,
Tirunelveli.

2.The Inspector of Police,
District Crime Branch,
Tirunelveli,

3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

Copy to

The Registrar Judicial
Madurai Bench of Madras High Court, Madurai

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