



**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

**DATE ON WHICH RESERVED : 20.01.2021**

**DATE ON WHICH PRONOUNCED : 17.02.2021**

**CORAM:**

**THE HON'BLE MR JUSTICE G.ILANGOVAN**

WEB COPY

Crl.O.P.(MD)No.13052 of 2017

and

Crl MP(MD)No.8852 of 2017

Loganathan ... Petitioner/Sole Accused

Vs.

1.The Inspector of Police,  
Sivanthipatti Police Station,  
Tirunelveli District.  
(Crime No.83 of 2016)

... 1<sup>st</sup> Respondent/Respondent

2.Selinkalaiselvi ... 2<sup>nd</sup> Respondent/Defacto Complainant

**Prayer:** Criminal Original Petition filed under Section 482 Cr.P.C., to call for the records relating to the FIR in Crime No.83 of 2016 on the file of the first respondent and quash the same.

For Petitioner : Mr.M.Subash Babu  
For Respondent : Mr.M.Ganesan  
Government Advocate (Crl.Side)

**ORDER**

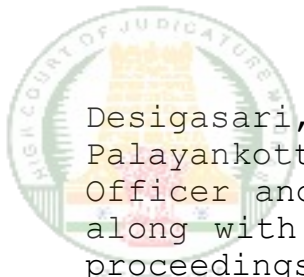
This Criminal Original Petition has been to quash the FIR in Crime No.83 of 2016 on the file of the first respondent.

2. The brief facts of the case is as follows:-

The petitioner herein is the accused in Crime No.83 of 2016 on the file of Sivanthipatti Police Station, Tirunelveli District. The allegations levelled against the petitioner are the offences punishable under Sections 465, 467, 468, 471, 419 and 420 IPC. The complainant is the second respondent herein, who is the Personal Assistant, attached to the Revenue Divisional Office, Tirunelveli District.

3.Heard the learned counsel appearing for the petitioner and the learned Government Advocate (Crl.Side) appearing for the State.

4.The contents of the First Information Report is that the petitioner filed writ petition in W.P.(MD)No.5310 of 2016 before this Court for transfer of Patta belonging to one Varadha



Desigasari, comprised in S.No.229/1, in Parpakulam village, Palayankottai Taluk. In that writ petition, the Revenue Divisional Officer and the District Revenue Officer were added as parties. So, along with the writ petition, he filed a document No.2, as if, the proceedings were issued by the Revenue Divisional Officer, in his proceedings in Ne.Mu.Aa3/7083/2014, dated 31/08/2015, W.P.(MD).No.5310 of 2016 was ordered to consider the representation of the petitioner for transfer of patta. On that basis, the petitioner again presented a representation on 11.01.2016, to the Revenue Divisional Officer. Perusal of the document annexed above mentioned, shows that the proceedings was not issued by the Revenue Divisional Officer. So, it is seen that the Official document has been forged by the petitioner and field into the Court.

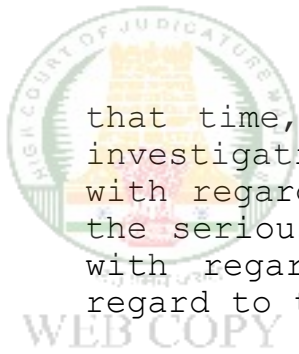
5.Actually, the proceedings is related to S.No.229/1. By which, the right of the petitioner to claim patta was rejected, on the ground that it is a pond. The petitioner appears to have forged the document and filed the same before the Court, for getting unlawful gain.

6.On the basis of the complaint, case in Crime No.83 of 2016 for the offences punishable under Sections 465, 467, 468, 471, 419 and 420 IPC, was registered. It appears that the investigation is pending.

7.Now, according to the petitioner, the allegations have been made against the petitioner that he forged the official document in Ne.Mu.Aa3/7083/2014, dated 31/08/2015, and filed the same into the Court. As per Section 195 (1) (b) (ii) of Cr.PC, only the Court, before which the document is filed, is competent to make a complaint. Moreover, it is also the contention that before making any such complaint, the enquiry provided under Section 340 Cr.PC, must be undertaken. The Second respondent is not a competent authority to file a complaint before the police and on that ground, the First Information Report is liable to be quashed.

8.The short point, which arises for consideration is *whether in the facts and circumstances of the case, registering of the First Information Report by the Sub Inspector of Police, Sivanthipatti Police Station is legal.* It is very unfortunate, that serious allegations are levelled against the petitioner with regard to forging of official document and filing the same into this Court for the purpose of getting a favourable order.

9.The reading of the complaint shows that along with the forged document for getting favourable order, again he approached the authorities for considering his request. It is seen that only at



that time, the veracity of the document came to light. Since the investigation is pending, this Court is not making any observation with regard to the alleged forgery of the document. It is seen that the serious allegation is levelled against the petitioner, not only with regard to the forging of official records, but, also with regard to the administration of justice.

10.Now, coming to the legal issue, according to the petitioner, by the judgment of the Hon'ble Supreme Court reported in **Amarsang Nathaji Vs Hardik Harshadbhai patel and Others 2017 (1) MWN (Cr.) 230 (SC)**, only the Court before, which the document has been used, is competent to make a complaint after understanding the enquiry under Section 340 Cr.PC. In that case, the complaint was filed without complying the procedure provided under Section 340 of Cr.P.C, before making the complaint.

11.There can be no quarrel with regard to the basic principles that has been affirmed by the Hon'ble Supreme Court in the above said judgment. But, the difference lies, the manner as well as the place, where the alleged forgery took place. If the forgery or falsification of document takes place out side of the Court, before its presentation to the Court, or let in evidence the bar under Section 195 (1) (b) (ii) is not attracted. But, only when the forgery has been committed after presentation into the Court, the bar under Section 195 (1) (b) (ii) Cr.P.C will come into the operation and this position has been clearly held by the constitution Bench by the Hon'ble Supreme Court reported in **R.C.Lahoti and Others Vs Meenakshi Marwah and Another 2005 (2) Supreme 549**. So, the allegations made in the complaint clearly shows that the petitioner alleged to have forged the official document and presented the same into the Court for getting favorable order.

12.So, this Court is of the considered view that the petitioner has to fail on this legal issue. So, when there is no bar under Section 195 (1) (b) (ii) of Cr.P.C, the procedure prescribed under Section 340 Cr.P.C also does not arise. So, the Criminal Original Petition is liable to be dismissed accordingly dismissed. Consequently, connected miscellaneous petition is closed.

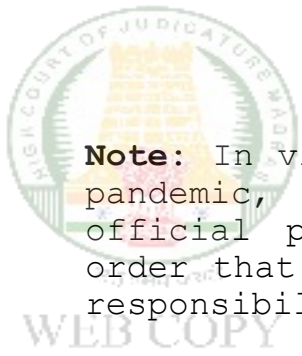
Sd/-

Assistant Registrar (CS-I)

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Sub Assistant Registrar(CS)



**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 Inspector of Police,  
Sivanthipatti Police Station,  
Tirunelveli District.
- 2.The Additional Public Prosecutor,  
Madurai Bench of Madras High Court,  
Madurai.

Crl.O.P. (MD) No.13052 of 2017  
and  
Crl MP (MD) No.8852 of 2017  
17.02.2021

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