



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.04.2022

CORAM

THE HONOURABLE MR.JUSTICE A.D.JAGADISH CHANDIRA

Crl.O.P.No.259 of 2022
and
Crl.M.P.Nos.80 & 82 of 2022

Murugan,
S/o.Tikkaram

... Petitioner

Vs

1.The State Represented by
The Inspector of Police,
CCB-II, Chennai.
(Crime No.177 of 2019)

2.Nishanth Kumar,
S/o.Baskar

... Respondents

Prayer: Criminal Original Petition filed under Section 482 of Cr.P.C., to call for the records in C.C.No.22 of 2022 on the file of the Judicial Magistrate, Special Court for Land Grabbing Cases, Tiruvallur and quash the same.

(Court name amended as per order in Crl.M.P.No.3578 of 2022 in Crl.O.P.No.259/2022 dated 21.03.2022)

For Petitioner : Mr.N.U.Pressanna

For Respondents :

For R1 : Mr.A.Gokulakrishnan
Additional Public Prosecutor

ORDER

This Criminal Original Petition has been filed, to call for the records in C.C.No.22 of 2022 on the file of the Judicial Magistrate, Special Court for Land Grabbing Cases, Tiruvallur and quash the same.

2. The learned counsel appearing for the petitioner would submit that the petitioner is innocent and he has been falsely implicated in this case and he would further submit that the petitioner is only an attesting witness and he has not committed any criminal offences.



3. The learned Additional Public Prosecutor for the first respondent would submit that the petitioner knowing very well that the A-1 has fabricated the documents by impersonating herself as wife of late Baskar, who is the real owner of the property and the petitioner knowing well about the same had attested the documents. The learned Additional Public Prosecutor would further submit that whether the petitioner is aware of the fraud or not can only be decided during the course of trial. He would further submit that the trial has also commenced and PW1 has been examined. Hence, he seeks to dismiss the petition.

4. This Court is of the view that all the grounds can be raised before the trial Court and there is no merits in the quash petition.

5. At this juncture, the learned counsel appearing for the petitioner prayed that the personal appearance of the petitioner before the trial Court, may be dispensed with.

6. Accepting the said submission, the presence of the petitioner before the trial Court shall be dispensed with on condition that he shall be present on the first day of appearance, on the date fixed for receiving the copies, initial questioning, reply to charges and questioning under Section 313 of Cr.P.C., and at the time of passing judgment and whenever insisted upon by the Trial Court.

7. The petitioner is further directed to give an undertaking in the form of affidavit that he will be duly represented by a counsel on all hearing dates and that the Counsel representing him will cross-examine the prosecution witnesses on the same day they are examined in chief. The petitioner shall not dispute the identity of the witnesses. The petitioner shall appear before the Court in the event his presence is insisted by the Trial Judge for the purpose of identification. If the petitioner adopts any dilatorial tactics, it is open to the Trial Court to insist for his appearance and deal with the petitioner in accordance with the Judgment of Hon'ble Supreme Court of India in State of Uttar Pradesh Vs. Shambunath Singh, reported in 2001 (4) SCC 667.

8. Accordingly, this Criminal Original Petition dismissed. The connected Criminal Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar (CS-III)

//True Copy//

Sub Assistant Registrar



To

1.The Judicial Magistrate,
Special Court for Land Grabbing Cases,
Tiruvallur.

2.The Inspector of Police,
CCB-II, Chennai.

3.The Public Prosecutor,
High Court of Madras.

+1cc to Mr.N.U.Pressanna, Advocate SR. No. 23896

Crl.O.P.No.259 of 2022
and
Crl.M.P.Nos.80 & 82 of 2022

MT (CO)
PR (28/04/2022)