



WEB COPY

IN THE HIGH COURT JUDICATURE AT MADRAS

DATED : 09.06.2022

CORAM:

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

CRL.O.P.NO.1456 OF 2019

AND

CRL.M.P.NO.918 OF 2019

Ali Jinnah

... Petitioner

.Vs.

1. The Union of India Rep. By its
The Station House Officer,
Odiansalai Police Station,
Puducherry.
(Crime No.101 of 2017)

2. The Regina Fatima Marie Saint Jacques,
No.34, Ramanar Street,
Mudaliarpeth, Puducherry.

... Respondents

PRAYER:-

Criminal Original Petition filed under Section 482 Cr.P.C., to call for the records relating to the proceedings in PRC No.05 of 2018 on the file of the Judicial Magistrate II, Puducherry, quash the same in respect of the petitioner alone.

For Petitioner : Mr.C.Sivanesan

For Respondents : Mr.V.Balamurugane
Public Prosecutor (Pondy)
For R1

No Appearance for R2

ORDER

This Criminal Original Petition is filed to quash the criminal proceedings pending against this petitioner wherein serious allegations of grabbing a land of a person, who is citizen of Pondicherry been investigated and final report was filed against 16 accused.



2. The incident of fraudulent grabbing of land creating documents is commenced as early as 2006 and to lay out the property and create the genuineness to the transaction, power agents were appointed. However, when the fraud came to the knowledge of the daughter of the property owner, criminal law is set into motion and on investigation, 16 persons were found involved in the conspiracy of fraud and land grabbing. Final report was filed on the completion of investigation. Out of 16 accused, five are absconding and the case against them has been split up. For the remaining 11 accused, final report is taken on file and the trial is pending vide S.C.No.21/2019 on the file of the III Additional District Judge, Pondicherry.

3. The petitioner before this Court is one of the absconding accused. According to the prosecution, his role in the said conspiracy to commit the crime is that the property of Mr.Saint Jacques Antoine, father of the defacto complainant, was purchased by one Karpagam, wife of Elumalai in the year 2002 through the power agent without the knowledge and instruction of the true owner. This property was attempted to be alienated through the power agent and for that purpose, this petitioner, to aid an assistant to the said Karpagam, wife of Elumalai, had agreed to be their power agent and power of attorney deed was registered in favour of this petitioner. Later on, when certain persons came to the residence of this petitioner and started threatening him, knowing their intention to grab the property, this petitioner has requested his principal to cancel the power of attorney and accordingly, the power of attorney deed was cancelled in the year 2015. So, in the course of the investigation, the respondent police has found that with knowledge, the petitioner has participated in the scheme of conspiracy.

4. However, all these allegations are denied by the petitioner herein saying that he is a bonafide and genuine person known to one Elumalai, the second accused in this case and being a friend of Elumalai, who is a sea farer, to assist him in administering the property, which Elumalai purchased in the name of his wife Karpagam, he agreed to be the power agent and he had no malice or culpable intention in the alleged scheme of conspiracy and as soon as he came to know about the rival claims and the dispute over the property, he requested Elumalai to cancel the power of attorney deed and accordingly, the same was cancelled. At no point of time, the petitioner had any criminal intention or mens rea and therefore, the case against him is to be quashed.

5. This Court, on perusing the records and hearing the submission made by the learned counsel for the petitioner and the learned Public Prosecutor appearing for the Union of India,



Pondicherry, finds that there are statement of witnesses and the accused implicating this petitioner herein in the scheme of conspiracy. Further more, the petitioner has not subjected himself for interrogation and trial and still, he is absconding. In the said circumstances, this petition to quash the case against him is not tenable. However, it is open to the petitioner herein to participate in the trial and make all defence available to him including discharge. The criminal original petition is dismissed without prejudice to the right of the petitioner as mentioned above. The connected miscellaneous petition is also dismissed.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

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To

1. The Station House Officer,
The Union of India,
Odiansalai Police Station,
Puducherry.
(Crime No.101 of 2017)
2. The Judicial Magistrate II,
Puducherry.
3. The Public Prosecutor (Pondicherry),
Madras High Court.

+1cc to Mr.M.Baskaran, Advocate, S.R.No.33467

CRL.O.P.NO.1456 OF 2019 AND
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PL(CO)
PBS/20/06/2022