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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 24.01.2022

Coram:

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

Crl.O.P.Nos.9103 & 9656 of 2018 &
Crl.M.P.No.4696, 10112 & 4978 of 2018

Sivapriya

... Petitioner in both the Crl.O.P.'s.

Vs

1. The Inspector of Police,
CCB, Team XV,
Vepery,
Chennai - 7.
(Crime No.15 of 2018)
2. S.Chidambaram ... Respondents in Crl.O.P.No.9103 of 2018
3. The State represented by
The Inspector of Police,
Pallikaranai Police Station,
St.Thomas Mount, Chennai.
(Crime No.2967 of 2017)
4. G.Divakar ... Respondents in Crl.O.P.No.9656 of 2018

COMMON PRAYER: Criminal Original Petitions filed under Section 482 of Criminal Procedure Code, to call for the records in Crime Nos.15 of 2018 and 2967 of 2017 on the file of the 1st and 3rd respondent Police and quash the same.

(In Crl.O.P.No.9103 of 2018)

For petitioner : Mr.N.R.Elango, Senior Counsel
for Mr.R.Vivekanandan

For Respondents : R1 - Mr.S.Vinoth Kumar,
Government Advocate(Criminal Side)

R2 - Mr.P.Sankaranarayanan



(In Crl.O.P.No.9656 of 2018)

For petitioner : Mr.N.R.Elango, Senior Counsel
for Mr.R.Vivekanandan

For Respondents : R1 - Mr.S.Vinoth Kumar,
Government Advocate(Criminal Side)

R2 - J.Lingeswaran

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COMMON ORDER

These petitions have been filed to quash the F.I.R. in Crime Nos.15 of 2018 & 2967 of 2017 on the file of the 1st and 3rd respondent Police filed against the petitioner for the offences under Sections 419, 465, 467, 468, 471, 120B, 568, 420, 506(i) r/w 34 of I.P.C.

2. The allegation in the F.I.R. shows that the property originally belongs to one Sockalingam, father of the defacto complainant and he died on 25.01.1995 and thereafter in the year, 2015, his mother has also died. When the matter stood thus, they came to know that one Periyasamy has registered a power of attorney in the name of his father and based on the same, he sold the property. The registering authority, the petitioner herein, who is the Sub-registrar of Saidapet, had registered the documents. Thereby, the F.I.R. has been filed.

3. The learned Counsel appearing for the petitioner submits that this F.I.R. is nothing but motivated as against this petitioner. The petitioner has only registered the document and done an official act and she is no way connected with the alleged act of impersonation and forgery etc., and it is his contention that the petitioner has been implicated purposely due to motive and higher officials wherein she has disclosed the names of persons who are instrumental in registering marsh land which was subject matter of the proceedings before this Court. This Court in Crl.O.P.No.4413 of 2013 by its Order dated 19.07.2021 has held that the present petitioner is no way connected with the registration of the documents with regard to the marsh lands and directed the officials of the Registration Department not to take any action against the petitioner. However, in view of the disclosure about the other officials, proceedings have been initiated against the other officials by the department. Thereafter, in this F.I.R., she was falsely implicated. It is the further contention of the learned counsel is that the defacto complainant claimed to be a legal heir of



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one Sockalingam relying upon the legal heir certificate, which is later found to be false. At any event, it is his contention that for merely discharging of her official duty, she cannot be prosecuted. Hence, seeks to quash the F.I.R. Another F.I.R has been registered with similar allegations.

4. The allegation of the defacto complainant is that when he presented a document for registration, the present petitioner had not registered the property and demanded some amount and thereafter, the above document was registered by somebody with the connivance of the petitioner. Hence, F.I.R. has been registered for the offences under Sections 465, 568, 471, 420, 506(i) r/w 34 of I.P.C.

5. The learned Senior Counsel for the petitioner has submitted that the above allegations have been pressed into service as an after thought and she had discharged her official duty and she is not a party of the alleged act of impersonation and forgery etc. He has further contended that the defacto complainant himself had sent a letter in Crime No.15 of 2018 to the investigation officer requesting not to prosecute the present petitioner.

6. The learned Counsel for the defacto complainant submitted that the property has been registered by the false Power of Attorney. He has not specifically made any acquisition against the present petitioner and he has made against the officials only who are in charge at the relevant point of time. Therefore, opposed.

7. Perused the entire materials.

8. Normally, when prima facie allegations available in F.I.R. to proceed with further investigation, the Court will not interfere in the F.I.R. But, at the same time, if the F.I.R. is bereft of details and involvement of petitioner with the alleged offences ruled out. Merely because, the petitioner had discharged her official duty, she cannot be roped in a criminal offence. The allegations in the F.I.R. itself indicate that except performing the duty to register the document presented by somebody claiming to be the Power of Attorney agent as Sockalingam and no other allegation has been made to the effect that she is actually participated in impersonation etc.

9. The duty of the registration officer is to make a primary enquiry. When the person presenting the document satisfies certain criteria as required under the Registration Act and Rules, the Registering Authority has no other option except to register the document. Therefore, when someone else created the document, impersonated other and presented the document, after making primary assessment, the registering



authority had to register the document. They cannot be clothed with a criminal liability with that of a person who has actually created a document and impersonated. When a person acted in an official duty and merely registering the document when the document qualifies for registration after making primary assessment merely because someone has actually created a document or impersonated which is not within the knowledge of the registering officials, the registering officials cannot be proceeded mechanically for the penal action. In this case, the only allegation of the defacto complainant against the accused is with regard to creation of the document by the third parties who presented the document. In such view of the matter, arraying this petitioner as an accused for serious crime is not according to law when the involvement of the petitioner is not at all there, except discharging her official duty.

10. As far as other F.I.R. is concerned, it is also is of similar nature and the defacto complainant has also addressed a letter to the investigation officer not to proceed against the petitioner as the allegations of the impersonation or creating false documents is absent as against the petitioner. It is also now stated that the document executed in pursuant to the power deed is also canceled by the authorities. Hence, both the F.I.R.'s filed as against the petitioner alone is quashed. The Investigation Officer is directed to expedite the investigation in respect of other accused and proceed as per law.

11. In the result, these Criminal Original Petitions are allowed and the First Information Report in Crime Nos.15 of 2018 and 2967 of 2017 on the file of the 1st and 3rd respondent Police as against the petitioner alone are quashed. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar (CS-V)

//True Copy//

Sub Assistant Registrar

vrc / kbs

To

1. The Inspector of Police,
CCB, Team XV,
Vepery,
Chennai - 7.



2. The Inspector of Police,
Pallikaranai Police Station,
St.Thomas Mount, Chennai.

3. The Public Prosecutor,
High Court, Madras.

+1cc to Mr.P.Sankaranarayanan, Advocate, S.R.No.4079

+4ccs to Mr.R.Vivekanandan, Advocate, S.R.No.3886

Crl.O.P.Nos.9103 & 9656 of 2018 &
Crl.M.P.No.4696, 10112 & 4978 of 2018

MT(CO)
SU(11/02/2022)
SU(24/02/2022)