

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.07.2022

CORAM:

THE HONOURABLE Dr.JUSTICE G.JAYACHANDRAN

Crl.O.P.No.4512 of 2019
and
Crl.M.P.No.2698 of 2019

A.Gunasekaran
S/o, Appusamy

...Petitioner

Vs.

1. The State represented by
The Inspector of Police,
Karungalpalayam Police Station,
Erode District.

2. Savithiri
W/o Late T.R.Muthumanickam

3. S.N.Pandiyan
S/o Natesan
[Third respondent is impleaded as per
the order of this Court dated 25.03.2019
made in Crl.M.P.No.4324 of 2019 in
Crl.O.P.No.4512 of 2019]

...Respondents

Prayer:Criminal Original Petition has been filed under Section 482 of Cr.P.C to call for the records relating to the criminal case in C.C.No.56 of 2017 on the file of the learned Judicial Magistrate No.1, Erode and quash the same in respect of the petitioner(A2) is concerned, by allowing this quash petition.

For Petitioner : Mr.N.Manokaran

For R1 : Mr.S.Udaya Kumar
Government Advocate (Crl.Side)

For R2 : No appearance

For R3 : Mr.A.Thiyagarajan
for M/s.J.Titus Enock

O R D E R

This Criminal Original Petition has been filed to quash the final report in C.C.No.56 of 2017 on the file of the Judicial Magistrate No.1, Erode wherein cognizance against this petitioner has taken for the offence under sections 465, 468, 471, 420 and 120(B) IPC.

2. Heard the learned counsel for the petitioner and the defacto complainant.

3. The learned counsel for the petitioner contended that it is purely a civil dispute regarding the title over the suit property wherein the petitioner claims right through an oral gift of Mahaboob Bibi in respect of the property she got through a compromise deed. Thereafter between the legal heirs of Mahaboob Bibi, suits have been instituted and they are pending in Courts at different stages. While title has to be decided by the compete Civil Court, the defacto-complainant herein has given a criminal colour to the transaction and filed the complaint which has now been taken on file.

4. Learned counsel for the petitioner relied upon the judgment of the Hon'ble Supreme Court rendered in Mohammed Ibrahim and others Vs. State of Bihar and another reported in 2009 (8) SCC 751.

5. Learned counsel appearing for the defacto complainant would submit that the fabrication of document and act of fraud committed by the petitioner can be easily seen from the nature of the deed executed in their favour which trace the source through oral gift. Further for two properties ie., one at Erode and another at Thiruchengode, the document was registered at Erode. The Tahsildar of Erode in the course of investigation has given the statement that property at Erode mentioned in the deed is a public road and not a private property. Similarly, report given by the Sub-Registrar, Thiruchengode in respect of one of the property covered under the sale deed dated 03.02.2012 is Government land. Thus the documents are alleged to have been fabricated by the petitioner herein in connivance with Mahaboob Sherif.

6. This Court on perusing the pleadings in the suit, the complaint and statements recorded by the Investigating Officer during the course of investigation finds that there is a prima facie material to frame charge against the accused for the offence under sections 465, 468, 471, 420 and 120(B) IPC. Hence complaint cannot be quashed.

7. As a result, this Criminal Original Petition is dismissed. Consequently, connected miscellaneous petition is also closed.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

mfa

To

1. The Judicial Magistrate No.1,
Erode.
2. The Inspector of Police,
Karungalpalayam Police Station,
Erode District.
3. The Public Prosecutor,
High Court, Madras - 104.

+1cc to M/s.J.Titus Enock, Advocate, S.R.No.43806
+1cc to Mr.N.Manokaran, Advocate, S.R.No.43162

Cr1.O.P.No.4512 of 2019
and
Cr1.M.P.No.2698 of 2019

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NSK/21/07/2022