



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.12.2022

CORAM:

THE HONOURABLE MS.JUSTICE R.N.MANJULA

Crl.O.P.No.4902 of 2021
and Crl.M.P.No.3133 of 2021

1.P.Chandran
2.Kuppulakshmi
3.S.Jayamoorthy
4.Selvi
5.Muthusamy
6.Jayanthi

...

Petitioners

versus

State by

1.The Inspector of Police,
District Crime Branch,
Villupuram, Villupuram District.
(Crime No.31 of 2014)

2.L.Palani

...

Respondents

PRAYER: Criminal Original Petition filed under Section 482 of the Criminal Procedure Code, praying to call for the entire records concerned in C.C.No.239 of 2020 on the file of the learned Judicial Magistrate No.I, Villupuram, Villupuram District and quash the same in so far as the petitioners are concerned.

For Petitioners

: Mr.C.Prakasam



For Respondent No.1 : Mr.A.Damodaran
Additional Public Prosecutor

For Respondent No.2 : Mr.S.Jeyakumar

ORDER

This Criminal Original Petition has been filed seeking for a direction to quash the proceedings in C.C.No.239 of 2020 on the file of the learned Judicial Magistrate No.I, Villupuram, Villupuram District.

2.Short facts of the case:-

The petitioners are the accused nos.1 to 6; the first accused is no more; the first accused was the Secretary of Kandamanadi Primary Agricultural Cooperative Society; the third accused was working as Junior Clerk and the *de facto* complainant was working as cashier; the first and third accused had influenced the *de facto* complainant that if they take the landed properties on mortgage, they can cultivate sugarcane and earn lot of profits; on believing their words, the *de facto* complainant invested Rs.1,75,000/- and the first accused invested Rs.2,00,000/- and the third accused invested Rs.1,25,000/-; the landed properties of one Sekar situated in Thirupachanur was taken on mortgage in the name of Latha, who is the wife of the *de facto* complainant and in the names of the accused nos.2 and



4 and they cultivated sugarcane in the said land and from the profits they earned the properties belonging to the local villagers by names, Pachaiaammal, Margabandhu, Arumugam, Sekar, Pandurangan, Alagesan and Jothi under mortgage.

2.1. On 20.10.2008 and 25.10.2010 a total extent of 3.59 acres were purchased by the accused nos.2 and 4 in the name of the *de facto* complainant's wife Latha and they have cultivated crops; but profits obtained was shared between the first and third accused; when the *de facto* complainant asked them to give his profit, the first and third accused asked the *de facto* complainant to transfer the lands standing in the name of his wife in favour of the sixth accused [wife of the fifth accused]; the first and third accused assured that if such sale deeds are executed the *de facto* complainant's share of profits amounting to Rs.23,75,000/- would be paid to him; by believing that, the wife of the *de facto* complainant had executed the sale deed in respect of her share of landed properties in favour of the sixth accused; while obtaining the said sale deed, the accused had managed to get the signature of the wife of the *de facto* complainant by inserting the empty papers tactfully and by making use of those papers they have created



a forged Sale Deed and other documents in a dishonest manner and thus cheated the *de facto* complainant and his wife.

3. The learned counsel for the petitioners submitted that a civil dispute between the parties have been given with criminal colour. The wife of the *de facto* complainant, who had knowingly affixed her signature in the documents, have chosen to give a complaint as an after thought. The allegations made against these petitioners are false and without any basis. Instead of invoking the remedy before the Civil Court, a criminal case has been foisted by false allegations.

4. The learned counsel for the *de facto* complainant submitted that after obtaining the signature of the wife of the *de facto* complainant in a fraudulent manner, just to cheat the *de facto* complainant from receiving his share of profit of Rs.23,75,000/- can only be construed as a criminal offence. The statement of the witnesses have enough incriminating materials against the accused and hence, it is a fit case in which the petitioner should be subjected to trial.



5. The learned Additional Public Prosecutor for the first respondent submitted that the first petitioner is no more and the case against the first accused have become abated. Since the witnesses have given statement by alleging that the accused had managed to get the signature of the wife of the *de facto* complainant by inserting the empty papers and later it has been used for a fraudulent purpose, the petitioners should be directed to participate in the trial.

6. Though the matter appears to be civil in nature, the *de facto* complainant has stated about the creation of certain documents by fraudulently obtaining the signature of his wife to cheat him. The witnesses have stated about the *modus operandi* and other relevant facts in their statements. Unless the petitioners are put under trial, the true facts cannot be proved before the Court. The petitioners already have filed a petition to quash the F.I.R. in this case in Crl.O.P.No.24454 of 2014. At that point of time, the petition was dismissed as infructuous on the observation that the police has completed the investigation and filed the charge sheet and it has been taken on file in C.C.No.212 of 2018 on the file of the learned Judicial



Magistrate No.I, Villupuram. But in fact, the charge sheet has been filed only in the year 2020 and that has been taken on file in C.C.No.239 of 2020.

7. The learned counsel for the petitioners submitted that the said misrepresentation made by the first respondent would show that the case against the petitioners itself is false.

8. The order of this Court dated 13.02.2019 would show that the Court was made to believe that the charge sheet had been filed. That could be due to some error but at any cost that alone would not serve as a circumstances to quash the proceedings. Since the witnesses have stated about the involvement of each of the accused distinctly and that the petitioners have committed the offence of cheating, I feel it is appropriate to allow them to participate in the trial and raise all those points which are now made before this Court as their defence. Since the case is of the year 2014, it is appropriate to direct the Judicial Magistrate No.I, Villupuram, Villupuram District to complete the trial as expeditiously as possible preferably within a period of three months from the date of receipt of a copy of this order.



9. With the above observations, this Criminal Original

Petition stands dismissed. Consequently, connected Miscellaneous Petition is closed.

06.12.2022

Speaking order / Non-speaking order

Index : Yes / No

Internet : Yes

sri

To

1.The Judicial Magistrate No.I,
Villupuram, Villupuram District.

State by

2.The Inspector of Police,
District Crime Branch,
Villupuram, Villupuram District.

3.The Public Prosecutor,
Madras High Court,
Chennai.



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R.N.MANJULA, J.

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