



CRL.O.P.No.10554 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 28.04.2022

PRONOUNCED ON : 06.10.2022

CORAM:

THE HONOURABLE MR. JUSTICE SATHI KUMAR SUKUMARA KURUP

Crl.O.P.No.10554 of 2019

and

Crl.M.P.Nos.5438 and 9089 of 2019

Rengasamy : Petitioner/Accused - 2

Vs

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

(Crime No.270 of 2017) : Respondent/Complainant

2.Arokiasamy : Respondent/Informant

Prayer: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, seeking to call for the records made in C.C.No.68 of 2018 on the file of the learned Judicial Magistrate, Sathyamangalam and quash the same as illegal.

For Petitioner	:	Mr.R.Sankarasubbu
For Respondent 1	:	Mr.S.Vinothkumar
		Government Advocate (Crl. Side)
For Respondent 2	:	Mr.M.Guruprasad



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ORDER

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This Criminal Original Petition is filed against the proceedings in C.C.No.68 of 2018 on the file of the learned Judicial Magistrate, Sathyamangalam.

2.The learned Counsel for the Petitioner Mr.R.Sankarasubbu submitted his arguments. As per the submission of the learned Counsel for the Petitioner, the Petitioner/Rangasamy had already entered into a sale agreement dated 10.05.2010 with one Srinivasan. He had immediately put the Petitioner in possession of the property measuring an extent of 96½ cents and the Petitioner is cultivating the same. Any transaction subsequent to the same, viz., executing a Power of Attorney by the second Respondent is to be treated as sham and nominal. Therefore, thereby the sale by Arockiyasamy in favour of his wife is null and void. The Petitioner had already moved Crl.O.P.No.26852 of 2018 seeking to quash the FIR in Crime No.270 of 2017 on the file of the Inspector of Police, Puliampatti Police Station, Erode District wherein this Court had passed an order of interim stay not to file final report at the stage of admission. Ignoring the same, the Investigation Officer has proceeded and laid final report in C.C.No.68 of 2018. Therefore, the Petitioner herein had not pressed the Criminal Original Petition No.26852 of 2018 and had filed this



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Petition to quash the Charge Sheet in C.C.No.68 of 2018. The second Respondent/Complainant had filed Civil Suit in O.S.No.154 of 2017 on the file of the learned Sub Judge, Sathyamangalam and it had been settled in Lok Adalat. In the settlement, it had been stated that the Defendant shall receive the balance of sale consideration and execute the sale deed in favour of the second Plaintiff/Baby Arokiasamy. Therefore, the Criminal Complaint filed by the second Respondent/Complainant against the Petitioner/Accused No.2 is nothing but an abuse of process of Court.

3.The learned Counsel for the Petitioner further submitted that the subject matter of the Criminal Complaint was agitated by way of suit by the second Respondent in O.S.No.154 of 2017 on the file of the learned Sub Judge, Sathyamangalam and the same was dismissed on 07.03.2019 against the Petitioner. The suit filed by the Petitioner in O.S.No.21 of 2012 was settled in Lok Adalat held on 12.04.2014 and as per the terms and conditions, the Plaintiff in O.S.No.21 of 2012 had to pay the balance of sale consideration to the Defendant in the suit and the Defendant shall execute the sale deed in favour of the Plaintiff. Therefore, the dispute between the Plaintiff and the Defendant – the Petitioner and Principal of the second Respondent herein had been settled in the Lok Adalat. The learned Counsel for the Petitioner invited



the attention of this Court to the proceedings in C.C.No.68 of 2018 pending on the file of the learned Judicial Magistrate, Sathyamangalam. The charge sheet was taken on file only under Section 447 of I.P.C. in which FIR in Crime No.270 of 2017 was filed under Sections 447 and 379 (Non purposal) but it was subsequently dropped and only charge sheet was filed under Section 447 of I.P.C. Therefore, the Criminal Complaint on the same cause of action is not maintainable. Hence, the Charge Sheet in C.C.No.68 of 2018 on the file of the learned Judicial Magistrate, Sathyamangalam, had to be quashed.

4.The learned Counsel for the second Respondent/De-facto Complainant Mr.M.Guruprasad submitted that the offence attracting Section 447 of IPC has to be considered only during trial and what are all argued by the learned Counsel for the Petitioner shall also be considered only during trial before the learned trial Judge while adducing evidence. This Court exercising jurisdiction/discretion under Section 482 of Cr.P.C. cannot consider the materials in the charge sheet as per the reported ruling of the Hon'ble Supreme Court in the case of *State of Haryana -vs- Bhajan Lal* reported in *1992 Suppl.(1) SCC 335*. Therefore, he prayed for dismissal of this Criminal Original Petition.



5.The learned Government Advocate (Crl. Side) Mr.S.Vinoth Kumar had also vehemently objected to quash the charge sheet stating that the Investigation Officer had gathered sufficient materials incriminating the Petitioner herein and the other accused Srinivasan. What are all argued by the learned Counsel for the Petitioner may be treated as valuable defence available to the Accused at the time of trial and this Court exercising inherent powers under Section 482 of Cr.P.C. cannot quash the charge sheet. Therefore, the learned Government Advocate (Crl. Side) sought dismissal of this Petition with a direction to the learned Judicial Magistrate, Sathyamangalam, to proceed with the trial and dispose of the same within reasonable time.

6.On perusal of the typed set of papers, it is found that the civil litigations between the Petitioner herein and the second Respondent and one Srinivasan have not attained finality. Therefore, on consideration of the reliance placed on by the learned Counsel for the Petitioners in the connected case viz., Crl.O.P.No.16089 of 2019 Mr.M.Guruprasad in the reported ruling of the Hon'ble Supreme Court in **(1998) 2 SCC 493 [Sachidanand Singh -vs- State of Bihar]** wherein it is observed that when the forgery is alleged to have taken place in a subject matter pending before the Court and the Court comes to the conclusion that party to the civil litigation had filed a forged document



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in support of his/her contention which was found out in due course of trial by the Civil Court, after conclusion of the trial, on the direction of the Civil Court only, a case can be registered by the official of the Court on behalf of the Court. Therefore, the Complaint preferred at the instance of the party to the civil proceedings before ever the Court comes to the conclusion that the document was presented before the Civil Court by the party to the civil proceedings and before ever the Civil Court arrives at a decision that the document marked and relied by the party to the civil dispute was a forged document, there cannot be a complaint at the instance of the said party. Here, there are civil litigations pending against each other. While so, till the civil litigation ends in finality, there cannot be an FIR or a private complaint for the offences alleged regarding forgery of a document filed before the Civil Court. When that be the case, the alleged offence of criminal trespass against the Petitioner would not arise. In such circumstances, the objection by the learned Government Advocate (Crl. Side) that the Charge Sheet cannot be quashed in the light of the reported ruling of the Hon'ble Supreme Court in ***State of Haryana -vs- Bhajan Lal*** reported in ***1992 Suppl.(1) SCC 335*** will not help the prosecution. On the other hand, the ruling placed by the learned Counsel for the Petitioners in the connected case in Crl.O.P.No.16089 of 2019 in ***(1998) 2 SCC 493 [Sachidanand Singh -vs- State of Bihar]*** is applicable to



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the facts and circumstances of the case. Under these circumstances, the final report filed against the Petitioner in C.C.No.68 of 2018 is found to be abuse of process of Court. The arguments of the learned Government Advocate (Crl. Side) and the learned Counsel for the second Respondent are rejected. Therefore, the final report filed against the Petitioner in C.C.No.68 of 2018 is liable to be quashed.

In the result, **this Criminal Original Petition is allowed.**

The Charge Sheet in C.C.No.68 of 2018 on the file of the learned Judicial Magistrate, Sathyamangalam, is quashed. Consequently, connected miscellaneous petitions are closed.

06.10.2022

SRM
Index:Yes/No
Internet:Yes/No

To:

- 1.The Judicial Magistrate,
Sathyamangalam.
- 2.The Public Prosecutor,
High Court, Chennai.



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SATHI KUMAR SUKUMARA KURUP,J.,

SRM

Order made in
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