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CRL.O.P.No.10551 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.Nos.10551 of 2019

and

Crl.M.P.Nos.5437 and 9088 of 2019

Rengasamy : Petitioner/Accused – 2

Vs

1.The State, represented by
Inspector of Police,
Puliampatti Police Station,
Erode District.
(Crime No.57 of 2018)

: 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.100 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 had been filed by the Petitioner/Accused No.2 seeking to quash the proceedings in C.C.No.100 of 2018 on the file of the learned Judicial Magistrate, Sathyamangalam.

2.The first Respondent in this Criminal Original Petition is the State through Inspector of Police, Puliampatti Police Station, Erode District. The second Respondent is Arokiyasamy, S/o.Arulsamy, resident of No.15-A, Indira Nagar, Rathinapuri, Coimbatore District, who is the informant, had lodged a complaint which was registered as Crime No.57 of 2018 and it was taken on file as C.C.No.100 of 2018 on the file of the learned Judicial Magistrate, Sathyamangalam.

3.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



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as sham and nominal. Therefore, thereby the sale by Rangasamy in favour of his wife is null and void. The Petitioner had already moved CrI.O.P.Nos.26840 and 26852 of 2018 seeking to quash the FIR in Crime No.57 of 2018 and 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.100 of 2018. Therefore, the Petitioner herein had not pressed the Criminal Original Petition No.26840 of 2018 and had filed this Petition to quash the Charge Sheet in C.C.No.100 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. Therefore, the learned Counsel for the Petitioner seeks to quash the proceedings in C.C.No.100 of 2018 on the file of the learned Judicial Magistrate, Sathyamangalam.



4.The learned Counsel for the second Respondent/De-facto Complainant

Mr.M.Guruprasad submitted that the offence attracting Sections 120B, 420, 465, 466, 467, 468, 471 and 109 IPC have 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 a reasonable time.

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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 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,



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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. 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 the facts and circumstances of the case. Under these circumstances, the final report filed against the Petitioner in C.C.No.100 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.100 of 2018 is liable to be quashed.

In the result, this Criminal Original Petition is allowed.



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The Charge Sheet in C.C.No.100 of 2018 on the file of the learned Judicial Magistrate, Sathyamangalam, is quashed. Consequently, connected miscellaneous petitions are closed.

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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
Crl.O.P.Nos.10551 of 2019

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