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CRL.O.P.No.14973 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.14973 of 2019

and

Crl.M.P.No.7345 of 2019

R.Srinivasan : Petitioner/Accused - 1

Vs

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

: Respondent/Complainant

2.Arockiasamy : Respondent/De-facto Complainant

Prayer: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, seeking to call for the records in C.C.No.No.68 of 2018 on the file of the learned Judicial Magistrate, Sathyamangalam and quash the same as against the Petitioner/A1, by allowing this Criminal Original Petition.

For Petitioner	:	Mr.V.Subramanian for M/s.Dass and Viswa Associates
For Respondent 1	:	Mr.S.Vinoth Kumar 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 against the proceedings in C.C.No.68 of 2018 on the file of the learned Judicial Magistrate, Sathyamangalam.

2.It is the contention of the learned Counsel for the Petitioner that the Petitioner had purchased the property measuring to an extent of 96½ cents in Nallur Village, Sathyamangalam Taluk, Erode District in Survey Nos.187/6 and 187/10B vide registered sale deed in Doc. No.1157 of 2010, dated 11.03.2010. Since the Petitioner had invested the entire share in the business which he had received from his father out of sale of his family property and thereafter, he was in need of further money, he has received a loan from one Mr.Rangasamy on execution of formal sale agreement dated 10.05.2010 for security purpose. Likewise the Petitioner had approached one Mr.Arockiasamy/second Respondent herein, who is also a financier who had on the basis of the document financed the motor vehicle. At the time of lending loan, apart from a General Power of Attorney, in respect of the aforesaid property, the said Arockiasamy/second Respondent obtained four unfilled promissory notes, two filled promissory notes and obtained signature in four empty papers and non-judicial stamp papers from the Petitioner. While



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so, when the Petitioner was in a position to settle the loan to Arockiasamy/second Respondent, the Petitioner called upon Arockiasamy/second Respondent and requested to get back the loan amount and to cancel the General Power of of Attorney. The said Arokiasamy/second Respondent evaded phone calls. The Petitioner applied for encumbrance certificate wherein he came to know that the said Arokiasamy/second Respondent executed a sale deed to and in favour of his wife on the basis of the General Power of Attorney without the knowledge of the Principal. Therefore, the Petitioner approached the Arokiasamy/second Respondent in person and questioned him. The said Arockiasamy/second Respondent threatened the Petitioner that he should not disturb him. Therefore, the Petitioner lodged a complaint before the Inspector General of Police, West Zone, Coimbatore, on 23.08.2011 and the same was forwarded to the Land Grabbing Cell, Erode District where the Petitioner was given receipt vide Receipt No.1106/2011 but no action was taken. Therefore, the Petitioner had lodged private complaint. In the meanwhile, on the strength of the sale agreement dated 10.05.2010, the said Rangasamy had filed a suit in O.S.No.21 of 2012 before the learned Sub Judge, Sathyamangalam and obtained a decree. Based on the decree, the learned Sub Judge had executed a sale deed in his favour in Doc. No.5822 of 2016 dated 16.12.2016. On the other hand,



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Arokiyasamy/second Respondent had given a complaint with false and frivolous allegation in Crime No.270 of 2017, dated 16.09.2017 for the offence under Section 447 and 379 (Non Purposal) of I.P.C., on the file of the first Respondent Police which was taken on file as C.C.No.68 of 2018 on the file of the learned Judicial Magistrate, Sathyamangalam. Apart from that, another case in Crime No.57 of 2018 dated 11.02.2018 was also registered by the first Respondent Police based on the complaint of Arokiasamy/second Respondent for the offences alleged under Section 120B, 420, 467, 468, 471 and 109 of IPC which 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 further submitted that from the complaint, it is clear that there was a civil suit pending between the Petitioner and the De-facto Complainant in O.S.No.154 of 2017 on the file of the learned Sub Judge, Sathyamangalam. The issue between the Petitioner and the De-facto Complainant/Second Respondent herein is purely civil in nature and there is no criminal act involved. In fact, the Petitioner had not visited the place of occurrence on the alleged date viz., 14.07.2017 as he was not at all in station. Therefore, the learned Counsel for the Petitioner submitted that this is a case filed with ulterior motive to harass the Petitioner/Srinivasan which is an



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abuse of process of Court. Therefore, the Criminal Complaint filed by the second Respondent is nothing but abuse of process of Court. Hence, the Petitioner seeks to quash the Criminal Complaint in C.C.No.68 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 Section 447 of IPC has to be considered only during trial and what are all argued by the learned Counsel for the Petitioner shall 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 Rengasamy. What are all argued by



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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 Rengasamy 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, 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 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.



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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 petition is 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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