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Crl.O.P No.21390 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : **08.12.2022**

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THE HONOURABLE Ms. JUSTICE R.N.MANJULA

Crl.O.P No.21390 of 2019
and Crl.M.P.No.11066 of 2019

Kasthuri Ammal

... Petitioner

Vs.

1. State Rep. by
Inspector of Police,
District Crime Branch,
Tiruvannamalai,
Tiruvannamalai District.
(Cr. No.8 of 2017)

2. Kumar

... Respondents

Criminal Original Petition is filed under Section 482 of Criminal Procedure Code, to call for the records and quash the First Information Report in Crime No.8/2017 on the file of the first respondent.

For Petitioners : Mr.M.Krishnamoorthy

For Respondent-1 : Mr. A.Damodaran
Additional Public Prosecutor

2 : No appearance



ORDER

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2. The petitioner is the second accused and the mother of the first accused by name Parthiban. The second respondent / *de facto* complainant had given a complaint on the allegation that the petitioner, her son Parthiban and her daughter-in-law Ananthi have offered him to sell Parthiban's share of property consisting a house site to an extent of 2100 sq.ft situated in 4th Road, 35th Block, Tiruvannamalai house site. The second respondent had purchased the same by virtue of a registered sale deed dated 27.10.2011 vide Document No.3539 of 2011. Once again the accused offered the *de facto* complainant to sell another house site measuring an extent of 3,400 sq.ft. which is said to be owned by Parthiban as his share and in pursuance of which a power of attorney was executed in favour of the second respondent for consideration of Rs.16,00,000/-. The contention of the petitioner is that having sold one item of property through outright sale and other item of the property through power of attorney for consideration, the



said Parthiban had once again entered into agreement in favour of one Nithyanandan and thereby cheated the second respondent. The second respondent came to know the same only when he was about to put up a construction in the property purchased by him and thereafter he had lodged a complaint. Based on which an FIR was registered in Cr. No.8/2017 for the offence under Section 465, 468, 471 & 420 IPC.

3. The learned counsel for the petitioner submitted that so far as this accused is concerned, she is the mother of the first accused and a senior citizen aged 81 years and is presently living in a 'Home' for elderly people run by Lions Club, Erode from 09.05.2016; even though there is no overt act on the part of the petitioner, she has been impleaded as an accused in this case; hence the case against the petitioner should be quashed.

4. The learned Additional Public Prosecutor submitted that the second accused being the mother of the first accused has also got connivance in the second sale agreement entered into by the first accused in favour of some third parties; hence investigation should be allowed to go to unearth the real facts.



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Crl.O.P No.21390 of 2021

5. On perusal of the records, it is seen that the petitioner as the mother of the first accused was present with her son and daughter-in-law when they offered to sell a portion of the property allotted to first accused. Even according to the allegations, the said property belongs to the first accused and he had executed the sale deed in favour of the second respondent. The petitioner being the mother was just present at the time when they negotiated with the second respondent for selling one item in his favour. So far as the second item is concerned, it is the first accused who had executed the power of attorney for consideration. The petitioner who is the mother of the first accused is a senior citizen aged 81 years, is not party to either of the transactions between the second respondent and the first accused.

6. Since the alleged properties also does not stand in the name of the petitioner, it is unnecessary to implicate the petitioner as an accused in this case. The petitioner also does not reside with the first accused even prior to the sale that had taken place between the second respondent and the first accused. Since there is no material available on record to make out a case as against this petitioner for the offences under Section 465, 468, 471 & 420 IPC, I feel it is appropriate to quash the case as against this petitioner.



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7. In view of the above stated reasons, this Criminal Original Petition is allowed and the First Information Report in Cr. No.8/2017 on the file of the first respondent is quashed as against the petitioner only. As regards the other accused, the investigation shall go on. Connected miscellaneous petition is closed.

08.12.2022

Index : Yes/No
Speaking Order : Yes / No
bkn

To:

1. The Inspector of Police,
District Crime Branch,
Tiruvannamalai,
Tiruvannamalai District.
- 2.The Public Prosecutor,
High Court, Madras.



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R.N.MANJULA, J.,

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