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Crl.RC.No.1365 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.09.2022

Coram:

THE HONOURABLE **MR. JUSTICE P.VELMURUGAN**

Criminal Revision Case No.1365 of 2022

and

Crl.M.P.No.14910 of 2022

D.Muthusamy

... Petitioner

Vs.

The State

Rep by its Sub Inspector of Police

District Crime Branch

Coimbatore District

... Respondent

Prayer: Criminal Revision filed under Section 397 and 401 of Criminal Procedure Code, praying to call for the records in C.M.P.No.101 of 2022 in C.C.No.14 of 2022 order dated 04.08.2022 on the file of the Judicial Magistrate Court, Special Court for Trial of Land Grabbing Cases, Coimbatore, and to set aside the same.

For Petitioner : Mr.L.Infant Dinesh

For Respondent : Mr.S.Sugendran
Additional Public Prosecutor



ORDER

This Criminal Revision Case has been filed seeking to set aside the order in C.M.P.No.101 of 2022 in C.C.No.14 of 2022 dated 04.08.2022 on the file of the Judicial Magistrate Court, Special Court for Trial of Land Grabbing Cases, Coimbatore.

2. The respondent police registered the case in Crime No.63 of 2014 against the petitioner and his family members for the offences under Sections 120(b), 465, 467, 471, 506(i) read with 109 IPC on the complaint given by the defacto complainant and after the investigation, laid charge sheet before the learned Judicial Magistrate, Mettupalayam and the learned Magistrate after completing the formalities, taken the charge sheet on file in C.C.No.215 of 2020 and subsequently, it was transferred from the file of the Judicial Magistrate, Mettupalayam, to the Judicial Magistrate, Special Court for Trial of Land Grabbing Cases, Coimbatore and renumbered as C.C.No.14 of 2022 and during pendency of the Criminal case, the petitioner who is arrayed as A1, filed a petition under Section 239 Cr.P.C. to discharge him from the said case. The said petition was dismissed by the learned Special Judge, by order dated 04.08.2022. Challenging the said order, the petitioner has filed the present revision before this Court.



3. The learned counsel for the petitioner would submit that there is no allegations against the petitioner regarding forgery of documents and all the allegations levelled by the defacto complainant are civil in nature and already civil suits are pending between the parties. Originally, the property belongs to the ancestors of the petitioner and the defacto complainant's family and on various stages, they executed varies documents and divided the properties and now they are enjoying their respective shares. As far as the disputed property is concerned, the petitioner is enjoying the property more than 7 years and he is in possession of the property and only in order to get over the civil case, the defacto complainant has filed the criminal complaint to give a criminal colour to the civil case. He would further submit that there is no prima facie materials to frame charges against the petitioner. He would further submit that when the petitioner had approached this Court seeking to quash the C.C.No.215 of 2020, by invoking Section 482 Cr.P.C. in Crl.O.P.No.6633 of 2021, this Court by order dated 13.09.2021, dismissed the same stating that the points raised by the petitioner are factual in nature which has to be necessarily decided only during trial. Hence, the petitioner approached the Hon'ble Supreme Court in SLP (Crl.) No.4323 of 2022. However, the same



was dismissed as withdrawn on 09.05.2022 with an observation that he will take steps to move the trial Court seeking discharge. Accordingly, the petitioner approached the trial Court seeking for discharge. However, the trial Court failed to appreciate the defence taken by the petitioner and dismissed the petition which, warrants interference of this Court.

4. The learned Additional Public Prosecutor appearing for the respondent police would submit that L.Ws.1, 2, and 3 have categorically stated the allegations and even the Revenue Officials have given statements that the petitioner has created document for more than what they are actually entitled to and for the larger extent, the petitioner has not produced any supportive document. Further, during investigation, the Investigating Officer has collected the forged documents namely partition deed dated 08.09.2011 in which, all the legal heirs of the successors have not been added as parties. The statements of the witnesses and the documentary evidences clearly proved that there are prima facie materials against the petitioner and therefore, the trial Court rightly dismissed the petition and there is no perversity in the order passed by the trial Court.

5. Heard both sides extensively and hence, this Court has decided to



dispose of the revision at the admission stage itself.

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6. Admittedly, the respondent police has registered the Crime No.63 of 2014 against the petitioner and his family members for the offences under Sections 120(b), 465, 467, 471, 506(i) read with 109 IPC on the complaint given by the defacto complainant and after the investigation, laid charge sheet. Initially the case was taken on file in C.C.No.215 of 2020 on the file of the learned Judicial Magistrate, Mettupalayam and subsequently, transferred to Special Court for Trial of Land Grabbing Cases, Coimbatore and renumbered as C.C.No.14 of 2022. During pendency of the case, the petitioner had filed a petition under Section 239 Cr.P.C. to discharge him from the said case and the same was dismissed. The learned counsel for the petitioner contended that the allegations are purely civil in nature and the defacto complainant is trying to give criminal colour and that there is no prima facie materials against the petitioner to frame charges and without any materials, the petitioner need not undergo any ordeal of trial which is nothing but futile exercise. However, a careful perusal of the records shows that there are prima facie allegations in the complaint as well as in statements recorded by the Investigation Officer under Section 161 Cr.P.C. from the witnesses.



Further, in the said partition deed all the share holders have not been added as parties. However, this Court cannot go into the entitlement of the parties and also equalment of shares which is purely civil in nature. Whether the documents have been forged or not; whether the accused have got any intention to deny the rights of the defacto complainant or not; all those cannot be gone into at this stage.

7. The scope of the petition under Section 239 Cr.P.C. is limited. At the time of deciding the petition under Section 239 Cr.P.C. the Court has to see only the materials in the final report filed by the Investigating Officer under Section 173 Cr.P.C. and not the defence taken by the accused or the documents filed by the accused.

8. At the time of framing of charges, the Court need not conduct rowing enquiry on the the allegations or on the documents filed by the prosecution. The Court has to see whether there is any prima facie allegations and materials to frame the charges. This Court finds that there are prima facie allegations and materials against the petitioner to frame the charges and to proceed further. To frame the charges, the Court need not give any reasons.



Only to discharge any one of the accused, the Court has to give reasons since discharging is nothing but acquittal. For framing of charges there is no need for any specific reason. If the Court is satisfied that there are prima facie allegations and materials to frame charges, then the Court can very well frame the charges. This Court does not find any perversity, illegality or infirmity in the order passed by the learned Magistrate and there is no merit in the revision. Hence, the revision is liable to be set aside.

9. Accordingly, this Criminal Revision Case is dismissed at the admission stage itself. Consequently, connected Miscellaneous Petition is closed.

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To

1. The Judicial Magistrate Court, Special Court for Trial of Land Grabbing Cases, Coimbatore
2. The Sub Inspector of Police
District Crime Branch
Coimbatore District
3. The Public Prosecutor
High Court of Madras

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P.VELMURUGAN,J.

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