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Crl.O.P.No.24972 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.10.2022

CORAM:

THE HONOURABLE MR. JUSTICE V.SIVAGNANAM

Crl.O.P.No.24972 of 2022

and

Crl.M.P.No.15594 of 2022

Krishnaveni

... Petitioner

Vs.

1.State,
The Sub Inspector of Police,
District Crime Branch,
Erode.
(Ref: Crime No.10 of 2022
dated 22.09.2022,
u/s.120B, 418, 429, 420, 465,
468, 471 and 109 of IPC)

2.Sathya Saravanan

... Respondents

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C., to
call for the records in Crime No.10 of 2022 on the file of the Sub Inspector of
Police, District Crime Branch, Erode, quash the FIR as against the petitioner.

For Petitioner : Mr.Deepanuday

For Respondents : Mr.S.Santhosh for R1,
Government Advocate (crl.side)



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ORDER

This Criminal Original Petition has been filed to quash the FIR as against the petitioner in Crime No.10 of 2022 dated 22.09.2022 on the file of the first respondent for the offences punishable under Sections 120B, 418, 419, 420, 465, 468, 471 and 109 of IPC.

2.The learned Counsel appearing for the petitioner would submit that the petitioner is the mother in law of the defacto complainant. The Substance of the allegation against the mother in law is that she along with the other accused had fabricated the life certificate of the defacto complainant and produced the same before the Sub Registrar office and entered into the partition deed, which stands in the name of the complainant as well as the petitioner/mother in law. Learned counsel would further submit that the petitioner being a beneficiary, has not participated in any of the offences as alleged by the prosecution. Therefore, the beneficiary cannot be prosecuted as there is no specific allegation against the petitioner. In support of his contention, he relied upon the judgment of Hon'ble Supreme Court in the case of “***Chundru Siva Ram Krishna & another Vs. Peddi Ravindra Baby & another***”, reported in (2009) 11 SCC 203. Therefore, in the absence of any specific allegation against the petitioner with regard to fabrication of life



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certificate and presentation of the same before the Sub Registrar office, continuing the prosecution would amount to abuse of process of law. Hence, the present petition has been filed.

3.The learned Government Advocate (crl.side) for the first respondent submitted that on the complaint given by the petitioner's daughter in law, a case has been registered against the petitioner in Crime No.10 of 2022 for the offences punishable under Sections 120B, 418, 419, 420, 465, 468, 471 and 109 of IPC and now the case is under investigation.

4. I have considered the matter in the light of the submission made by the learned counsel for the petitioner and the learned Government Advocate (crl.side) for the first respondent.

5. On perusal of records, it reveals that the defacto complainant is the daughter in law of the petitioner. A case has been registered against the petitioner/A2 in Crime No. 10 of 2022 for the offences punishable under Sections 120B, 418, 419, 420, 465, 468, 471 and 109 of IPC. The allegation stated in the FIR is that after marriage, the defacto complainant lived at New Zealand. While she was at New Zealand, she gave Power of Attorney in



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favour of her mother in law on 05.02.2011. Based on the Power of Attorney, her father in law purchased property in her name as well as the petitioner/mother in law name jointly on 18.01.2012.

6. Subsequently, there was a dispute between the defacto complainant and her husband and got divorce on 14.09.2021. Thereafter, she cancelled the Power of Attorney given in favour of her father in law/A1 on 25.02.2022, which was intimated through email properly. Later, in order to take the property from the defacto complainant, the petitioner and other accused colluded together and fabricated the life certificate of her and entered into the partition deed, based upon the earlier Power of Attorney, which was cancelled.

7. It is seen that the civil suit is pending between the parties in O.S.No.72 of 2013 and the investigation is at the beginning stage. Therefore, it does not meet the parameters laid down by the Supreme Court in ***State of Haryana vs. Ch.BhajanLal (AIR 1992 SC 604)***, ***M/s Neeharika Infrastructure Pvt. Ltd. Vs. State of Maharashtra and others (2021 SCC online 315)*** & ***PRATIBHA RANI Vs.SURAJ KUMAR & ANR (1985 Crl.L.J.817)***, the matter has to be investigated to find out the truth. Therefore,



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it is inappropriate to quash the FIR and close the investigation at the beginning stage. Therefore I find no merit and investigation is to be conducted to find out the truth.

8.With the above direction, this Criminal Original Petition stands dismissed. Consequently, connected Criminal Miscellaneous Petition is closed.

18.10.2022

Internet:Yes
Index:Yes/No
Speaking/Non speaking order
shk

To

1. The Sub Inspector of Police,
District Crime Branch,
Erode.

2.The Public Prosecutor,
High Court of Madras.



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V.SIVAGNANAM, J.

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