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Crl.O.P.No.26123 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 31.10.2022

CORAM

THE HONOURABLE MR. JUSTICE V.SIVAGNANAM

Crl.O.P.No.26123 of 2022

and

Crl.M.P.No.16113 of 2022

1.R.Chidayan @ Chitthayan

2.Chandrakala

... Petitioners

Vs.

1.The State rep. by
The Inspector of Police,
District Crime Branch, Erode,
Erode District.
(Crime No.3 of 2022)

2.Kannan D

... Respondents

PRAYER: This Criminal Original Petition filed under Section 482 of Cr.P.C., to call for the records and quash the proceedings against the petitioners/accused A2 & A3 in Crime No.3 of 2022 dated 08.04.2022 pending on the file of first respondent police.

For Petitioners : Mr.M.Vignesh

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 in Crime No.3 of 2022 pending on the file of the first respondent for the offences punishable under Sections 417, 465, 467, 468, 471, 474, 120 B and 506(i) of IPC.

2.The learned counsel for the petitioners submitted that the defacto complainant approached the 4th accused, who is an Advocate, to obtain Death Certificate and Legal Heir Certificate of his deceased father, for which, the defacto complainant handed over the original title deeds documents to the 4th accused. Thereafter, the 4th accused prepared the Death Certificate and Legal Heir Certificate, without approaching any Court. On suspecting the same, the defacto complainant had received the original title deed documents from the 4th accused. Later, the defacto complainant came to know that the first accused colluded with the 4th accused, by impersonating himself as the step brother of the defacto complainant, had sold the property. The petitioners are the innocent purchasers of the property. The petitioners are no way connected with the alleged offence. Hence, the present petition has been filed.



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3. The learned Government Advocate (crl.side) for the first respondent submitted that in this case, investigation is under progress.

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

5. On perusal of records, reveals that the first respondent police registered a case against the petitioners in Crime No.3 of 2022 on 08.04.2022 for the offences punishable under Sections 417, 465, 467, 468, 471, 474, 120 B and 506(i) of IPC. A perusal of FIR, it is seen that the complainant one Kannan stated that his father Duraiswamy had two wives. He is the son of the first wife Natchayammal. After the death of his father, the second Wife one Bakiyalakshmi's son Krishnamoorthy was missing before 18 years back. Now all the Legal heirs are dead. The defacto complainant, who was having the original title deed documents, had handed over the same before one Tamilianian/4th accused, Advocate for changing the name of the properties from his father's name to his name. At that time, the defacto complainant found that the said advocate prepared the death certificate and legal heir certificate, without approaching any Court and on suspecting over the same, the defacto



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complainant had received the original title deeds from the Advocate. Later, the complainant came to know that, the first accused one Moorthi impersonated himself by creating fabricated title documents in his favour, as if he is the missing Krishnamoorthy S/o Duraisamy. The complainant belongs to Kongu Velagounder community and the Moorthy belongs to Asari community. It is further stated that on 31.01.2021 at about 2.25 AM, the petitioners and 15 others came to the defacto complainant's house and assaulted him and damaged his house and other articles worth about Rs.40,000/-. Therefore, the complainant contacted the emergency No.100 and the police came to the house of the complainant and recovered the articles from the accused. Thereafter, a case has been registered in Crime No.3 of 2022 for the offences punishable under Sections 417, 465, 467, 468, 471, 474, 120 B and 506(i) of IPC. On perusal of FIR discloses, cognizable offences and it has to be investigated and the case 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 CrI.L.J.817)*. Therefore, 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.



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

31.10.2022

Internet: Yes/No

Index: Yes/No

Speaking/Non speaking order

shk

To

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

2. The Public Prosecutor,
High Court of Madras.



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V.SIVAGNANAM,J.
shk

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