



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated:19/04/2022

CORAM:

WEB COPY

THE HON'BLE MR JUSTICE G.ILANGO VAN

Cr1.OP(MD)No.4499 of 2019

and

Cr1.MP(MD)Nos.2756 and 2757 of 2019

Rajendran

... Petitioner/Accused No.4

Vs.

1.State rep, by
Inspector of Police,
Alagappapuram Police Station,
Sivagangai.

... 1st Respondent/Complainant

2.Alagusundar

... 2nd Respondent/De-facto
complainant

Prayer: Criminal Original Petition has been filed under section 482 of the Criminal Procedure Code, to call for the records pertaining to the case in CC No.126 of 2018 on the file of the Principal District Munsif-cum-Judicial Magistrate, Karaikudi and quash the same.

For Petitioner : Mr.M.Karthikeya
Venkatachalapathy

For 1st Respondent : Mr.SS.Madhavan
Government Advocate(Criminal side)

For 2nd Respondent : Mr.V.Panneerselvam

O R D E R

This petition has been filed seeking quashment of the case in CC No.126 of 2018 on the file of the Judicial Magistrate, Karaikudi.



2.The case of the prosecution in brief:-

The de-facto complainant has stated in the complaint that on 17/06/2015, witness No.3 by name Vellaisamy sold the property, which belongs to him in favour of one Alagusundar, who is the de-facto complainant herein. That was a unregistered deed. After purchase, the de-facto complainant was in possession. The entire sale consideration was paid by the de-facto complainant. Since the de-facto complainant was in some other area, he requested his friend namely Kannathasan to manage the property. The son of the above said Vendor namely Muthaiya created a forged settlement deed, as if his father settled the property in his favour. In turn, that property on the basis of the above said forged settlement deed was sold to one Kannan. So on the basis of the above said sale, the above said Kannan encroached the property. That was brought to the notice of the de-facto complainant and after coming to know the illegal activities, he lodged a complaint. In pursuance of the above said complaint, a case in Crime No. 102 of 2016 was registered for the offence under sections 468 and 420 IPC and after completing the formalities of investigation, final report was filed and it was taken cognizance in CC No.126 of 2018 by the Principal Munsif-cum-Judicial Magistrate, Karaikudi.

3. Seeking quashment of the same, this petitioner, who is arrayed as A4 is before this court by filing this petition on the ground that he is an Advocate by profession and discharged his function of notary public and no materials have also been collected against this petitioner during the course of investigation. According to him, as per section 13 of the Notaries Act, only the competent authority has to file the complaint against the notary public, if any mistake has been committed by him.

4. Heard both sides.

5. No doubt that the petitioner is a notary public, who was appointed by the Central Government and is practising the same from 2002. According to the petitioner, section 13 of the Act bars the prosecution. But the allegation against the petitioner is serious in nature. He attested the unregistered sale deed, which is not permissible under law. Not stopping with that he also signed as an arrestor in the settlement deed and also gave legal advice to the Tamil Nadu Electricity Board. He has also anti-dated the document in the notary register. So according to the prosecution, it is not a simple act of discharging the duties of a notary public but it is a clear case of forgery and cheating. So section 13 will not come in the aid of this petitioner. I find no merit in this petition.



6. In the result, this criminal original petition is **dismissed**.
Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar (Admn.I)

// True Copy //

/ /2022

Sub Assistant Registrar (CS)

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Note :

In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

1. The Principal District Munsif-cum-
Judicial Magistrate,
Karaikudi.

2. The Inspector of Police,
Alagappapuram Police Station,
Sivagangai.

3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to M/s.M.KARTHIKEYA VENKITACHALAPATHY, Advocate
(SR-19615[F] dated 20/04/2022)

+1 CC to M/s.V.PANNEER SELVAM, Advocate
(SR-20257[F] dated 21/04/2022)

Cr1.OP (MD) No.4499 of 2019
and
Cr1.MP (MD) Nos.2756
and 2757 of 2019
19.04.2022