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Crl.O.P.No.2319 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.06.2023

CORAM:

THE HONOURABLE MR. JUSTICE **SUNDER MOHAN**

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and

Crl.M.P.Nos.1287 & 1286 of 2021

1. A. Anandan
2. S. Karunakaran
3. M. Siva
4. N. Hariharan
5. C. Sahadevan
6. C. Chinnasami
7. R. Karpagavalli
8. Sakthi Vel
9. K. Manimegalai

... Petitioners / A1 to A9

-Vs-

S. Venkateswari

... Respondent / Complainant

Prayer: Criminal Original petition filed under Section 482 of Code of Criminal Procedure, to call for the entire records connected with the private complaint filed by the respondent in C.C.No.62 of 2018 on the file of the Judicial Magistrate Court, Perundurai and the quash the same insofar as the petitioners are concerned.

For Petitioners : Mr. S. Sathia Chandran

For Respondent : Mr. M. Mathanraj,

Legal Aid Counsel.



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ORDER

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This Criminal Original Petition has been filed seeking to quash the private complaint in C.C.No.62 of 2018 on the file of the Judicial Magistrate Court, Perundurai, filed for the alleged offences under Sections 109, 120(b), 468, 471 and 420 IPC.

2.It is alleged in the complaint that the petitioners herein who are shown as accused Nos.A1 to A9 had obtained signatures in the first page and second page of the registered document, wherein the de-facto complainant's photo was affixed and had forged the signatures in the remaining pages and thereby either created a document, which she did not intended to execute or changed the schedule to the document by adding more properties; that nine such documents were executed in favour of some of the accused / petitioners on various dates between 04.09.2013 to 13.11.2013, in which some of the documents are shown as Sale Deed and the other documents are Power of Attorney. Hence, the complaint.



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3.The learned counsel for the petitioner would submit that the allegations made by the respondent are not true. The allegations on the face of it appears to be improbable and the standard allegation in respect of all documents is that, except for the first page and second page, the other signatures of the respondent are forged cannot be accepted. The civil dispute is sought to be projected as a case of forgery. Earlier, the 2nd respondent had given false complaint on 08.02.2016 and 29.06.2017 before the police and the said complaints were closed.

4.The learned counsel further submitted that all the documents have been executed in the year 2013 on various dates. Whereas, the impugned complaint was filed on 03.03.2018. In the meanwhile, the respondent had also filed a Civil Suit on the file of the Sub-Court, Perundurai in O.S.No.55 of 2017 praying for declaration that she is the absolute owner of the properties covered by the documents said to have been executed by her and prayed for permanent injunction. The said suit was dismissed for default on 21.11.2017. The respondent had filed a petition for restoration and the said petition was allowed on 01.02.2020, on the condition that she should pay a cost of Rs.1,000/- on or before 07.02.2020. However, since the 2nd respondent did not pay the said cost,



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the restoration petition was dismissed on 07.02.2020. After filing the Civil Suit, the respondent has preferred the impugned complaint. It is further submitted that there were no documents executed in favour of the petitioners 2, 8 and 9 and they have been falsely implicated. It is further submitted that the quash petition filed by A10 was allowed by order dated 06.08.2020 in Crl.O.P.No.1811 of 2020. The learned counsel therefore prayed that the impugned complaint is nothing but an abuse of process of law and it is liable to be quashed.

5.Though notice was sent to the respondent none has entered appearance on her behalf. Therefore, this Court appointed Mr. M. Mathanraj, as legal aid counsel, to appear on behalf of the respondent.

6.Mr. M. Mathanraj, learned counsel for the respondent submitted that it is the consistent stand of the respondent that her signature had been forged in all the documents. The respondent had taken the same standard before the Civil Court as well. The question as to whether the respondent's signature was forged or not is an issue which has to be tried and hence, he prayed for dismissal of the quash petition.



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7.This Court finds that there are nine different documents said to

have been executed by the respondent in favour of the petitioners. They have been executed on different dates between 04.09.2013 to 13.11.2013. In some cases, the respondent had claimed that she intended to execute only a Power of Attorney, whereas the petitioners had falsely created a Sale Deed and forged her signatures in all pages except for the first and second pages. In some cases, it is the case of the respondent that though the respondent intended to convey only a portion of the property, the petitioners had added some more properties in the schedule by forging her signature in those pages. The above allegations, on the face of it appears to be improbable. All the documents are registered documents. It is a matter of common sense that these documents are presented in presence of the Registrar. The allegation that the signatures in some of the pages were forged is an after thought and belies common sense. That apart, the respondent filed a Civil Suit on the file of the Sub-Court, Perundurai in O.S.No.55 of 2017 and the said suit was dismissed for default. The respondent had filed a petition for restoration, the same was allowed with a conditional order to pay a sum of Rs.1,000/-, but she had not complied with the conditional order and hence, the restoration petition was also dismissed in I.A.No.1 of 2018 by order dated



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07.02.2020.

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8.Further, this Court finds that all the documents were said to have been executed in the year 2013 itself. Even according to the respondent, she had given the police complaints only in the year 2016 and 2017 which were admittedly closed. The impugned private complaint was filed in the year 2018. The impugned complaint was filed after the Civil Suit was filed. The complaint had been filed nearly after five years, after the alleged occurrence belatedly. The impugned complaint therefore is an abuse of process of law.

9.Hence, the impugned complaint in C.C.No.62 of 2018 on the file of the learned Judicial Magistrate, Perundurai, is quashed and the Criminal Original Petition is allowed. Consequently, connected Criminal Miscellaneous Petitions are closed.

10.This Court records its appreciation for the assistance rendered by Mr. M. Mathanraj, learned counsel appointed by this Court for the respondent. The Tamil Nadu Legal Aid Services Authority, Chennai, is



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directed to pay a sum of Rs.10,000/- as remuneration to the legal aid
counsel.

12.06.2023

smv

Index : Yes/No

Neutral Citation : Yes/No

Speaking order : Yes/No

To,

1.The Judicial Magistrate, Perundurai.

2.The Public Prosecutor,
High Court of Madras.

SUNDER MOHAN,J.

smv



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