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1 of 6

**IN THE HIGH COURT OF JUDICATURE AT MADRAS**

**DATED : 22.09.2023**

**CORAM**

**THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH**

**Crl.O.P No.8397 of 2022**  
**and Crl.MP.No.4893 of 2022**

M.Kavitha (F/59)  
W/o.Late Mathiyakaran

.. Petitioner/Accused No.4

.Vs.

1.Inspector of Police  
Central Crime Branch  
Vepery, Chennai-07.

.. 1<sup>st</sup> Respondent/Complainant

2.Godandaraman (M/74)  
S/o.Kannaiyanaidu

.. 2<sup>nd</sup> Respondent/De fact Complainant

PRAYER: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to call for the records and quash the Charge Sheet in C.C.136 of 2021 in Crime No.486 of 2008 on the file of the Judicial Magistrate No.I, Poonmallee.

For Petitioner : Mr.Ananda Gomathi Murugesan

For Respondents : Mr.A.Gopinath  
Government Advocate (Crl. Side)  
for R1

**ORDER**

This criminal original petition has been filed to quash the proceedings in

<https://www.mhcn.gov.in/judis> C.C.No.136 of 2021, pending on the file of Judicial Magistrate I, Poonamallee.



2.The 2<sup>nd</sup> respondent gave a complaint to the 1<sup>st</sup> respondent to the effect that the husband of the petitioner had offered to buy 70 cents of land from the 2<sup>nd</sup> respondent and this offer was rejected by the 2<sup>nd</sup> respondent. It is alleged that on 27.2.2007, the husband of the petitioner impersonated the 2<sup>nd</sup> respondent and forged his signature in order to transfer the property in his name. In this process, the son and the father-in-law of the 2<sup>nd</sup> respondent had also colluded and thereby the three accused persons had committed offence of cheating and forgery and they have conspired with each other for committing this offence. Based on this complaint, an FIR came to be registered in Crime No.486 of 2008 on 10.7.2008 against the husband of the petitioner and two others.

3.The investigation was taken up by the 1<sup>st</sup> respondent and a final report was filed. Till this point of time, there was neither any allegation against the petitioner nor was the petitioner added as an accused in the case.

4.The husband of the petitioner died on 17.12.2018. Hence, a memo was filed before the Judicial Magistrate, Poonamallee, to the effect that the charge as against the husband of the petitioner has abated. The same was objected by the 2<sup>nd</sup> respondent by filing an application in CMP.No.1929 of 2020. Based on the same, a reinvestigation was ordered in this case and pursuant to the same, a further report was filed, wherein the petitioner was also added as an accused and was ranked as A4. Aggrieved by the same, the present quash petition has been filed before this

Court.



5. Heard Mr. Ananda Gomathi Murugesan, learned counsel for the petitioner and Mr. A. Gopinath, learned Government Advocate (Crl. side) for R1. The 2<sup>nd</sup> respondent has been served with notice and the name of the 2<sup>nd</sup> respondent has also been printed in the cause list. However, there is no representation for the 2<sup>nd</sup> respondent either in person or through counsel.

6. This Court has carefully considered the submissions made on either side and the materials available on record.

7. On going through the records, it is seen that the first illegality that has been committed in this case is that a reinvestigation has been ordered by the higher authorities. The scope of Section 173(8) Cr.P.C., is only to conduct a further investigation and a reinvestigation cannot be conducted. The law on this issue is now too well settled. Hence, the reinvestigation which had resulted in adding the petitioner as an accused in this case is on the face of it illegal.

8. Even on the merits of the case, on carefully reading the statement recorded from the *de facto* complainant under Section 161(3) Cr.P.C., it is seen that the *de facto* complainant has not made any allegation against the petitioner. The prosecution seems to be relying upon the statement recorded from one Arun, who is the son of the petitioner. He has stated as if the petitioner had taken the impugned document inside the house and handed it over to her husband and therefore, the petitioner is also aware about the forgery and cheating committed by the other accused persons.



In this statement, the said Arun speaks about the demise of his father on 17.12.2018. Curiously this statement was recorded on 17.6.2013. That itself shows that this statement is made up only to rope in the petitioner as an accused in this case.

9.In the considered view of this Court, there are absolutely no materials in this case to s make the petitioner undergo a trial in this case. The continuation of the proceedings as against the petitioner will result in an abuse of process of Court and it requires the interference of this Court in exercise of its jurisdiction under Section 482 of Cr.P.C.

10.In the result, the proceedings in C.C.No.136 of 2021, pending on the file of the Judicial Magistrate No.I, Poonamallee, is hereby quashed insofar as the petitioner/A4 is concerned and this criminal original petition stands allowed. Consequently, connected miscellaneous petition is closed.

**22.09.2023**

Index : Yes/No  
Internet : Yes/No  
Speaking Order/Non-Speaking Order  
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5 of 6



To

1. Inspector of Police  
Central Crime Branch  
Vepery, Chennai-07.
2. Judicial Magistrate Court No.I  
Poonamallee,
3. The Public Prosecutor,  
High Court, Madras.



WEB COPY



6 of 6

**N. ANAND VENKATESH,, J.**  
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