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*Crl OP No.7449 / 2021*

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

DATED: 13.06.2023

CORAM :

**THE HONOURABLE MR. JUSTICE SUNDER MOHAN**

Criminal Original Petition No.7449 of 2021  
and  
Crl.M.P. No.4938 of 2021

S.M.Shanmugam,

... Petitioner

Versus

1. The State

Represented by its Inspector of Police,  
Sathyamangalam Police Station,  
Erode District.

2.Mr.Chandrakumar

The Village Administrative Officer,  
Malayadipudur Village,  
Sathyamangalam Taluk,  
Erode District.

... Respondents

PRAYER : Criminal Original Petition filed under Section 482 of the Criminal Procedure Code seeking to call for the entire records in Crime No.62 of 2021 on the file of the 1<sup>st</sup> respondent police, and to quash the same.



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For Petitioner : Mr. Govind Chandrasekhar  
Mr. Ma.P.Thangavel

For Respondent : Mr. S.Balaji  
Government Advocate (Crl.Side)  
for R1.

No Appearance for R2

### **O R D E R**

The petition is to quash the first information report for the alleged offences under Sections 468, 471 and 420 of IPC.

2. It is alleged in the FIR that the land belonging to the Government was assigned to twenty-five persons, and the petitioner, by falsely claiming title over the property in the year 2009, had sold a portion of the land assigned to twenty-five individuals to third parties and thus, committed the aforesaid offences.

3. The learned counsel for the petitioner would submit that the petitioner's claim is not in respect of the land allotted to the twenty-five artisans; that in any case, the impugned FIR is liable to be quashed since none of the offences stated therein have been made out, and the case is



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covered by the Judgment of the Hon'ble Apex Court in ***Mohammed***

***Ibrahim vs. State of Bihar*** reported in ***(2009) 8 SCC 751***; that even if

the petitioner has made a false claim of title and executed a sale deed, the Government which claims title over the property cannot be said to be cheated; that admittedly, the petitioner has not forged any document and; that the offence under Section 468 of IPC is not made out and he prayed for the quashing of the FIR filed against the petitioner.

4. The learned Government Advocate (Crl.Side) submitted that the Government land which was assigned to artisans is sought to be grabbed by the petitioner by falsely claiming title over the property; that the allegation has to be investigated and cannot be scuttled at this stage and he prayed for dismissal of the quash petition.

5. This Court finds that the allegation is that the petitioner by falsely claiming title over the property had sold the property which was allotted to twenty-five artisans by the Government to third parties. The Defacto complainant/Village Administrative Officer claims that the property belongs to the Government. It is not the case of the Defacto complainant/Village Administrative Officer that the third parties who had



purchased the property have given any complaint. The Government cannot be said to be cheated in such circumstances. The petitioner had not forged any document. The observations of the Honourable Apex Court in ***Mohammad Ibrahim vs. The State of Bihar (cited supra)*** squarely apply to the facts of this case. The relevant observations are as follows:

*16. There is a fundamental difference between a person executing a sale deed claiming that the property conveyed is his property, and a person executing a sale deed by impersonating the owner or falsely claiming to be authorised or empowered by the owner, to execute the deed on owner's behalf. When a person executes a document conveying a property describing it as his, there are two possibilities. The first is that he bona fide believes that the property actually belongs to him. The second is that he may be dishonestly or fraudulently claiming it to be his even though he knows that it is not his property. But to fall under first category of "false documents", it is not sufficient that a document has been made or executed dishonestly or fraudulently.*



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*There is a further requirement that it should have been made with the intention of causing it to be believed that such document was made or executed by, or by the authority of a person, by whom or by whose authority he knows that it was not made or executed.*

*“17. When a document is executed by a person claiming a property which is not his, he is not claiming that he is someone else nor is he claiming that he is authorised by someone else. Therefore, execution of such document (purporting to convey some property of which he is not the owner) is not execution of a false document as defined under Section 464 of the Code. If what is executed is not a false document, there is no forgery. If there is no forgery, then neither Section 467 nor Section 471 of the Code are attracted.*

...

*20. When a sale deed is executed conveying a property claiming ownership thereto, it may be possible for the*



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*purchaser under such sale deed, to allege that the vendor has cheated him by making a false representation of ownership and fraudulently induced him to part with the sale consideration. But in this case the complaint is not by the purchaser. On the other hand, the purchaser is made a co-accused.*

*21.It is not the case of the complainant that any of the accused tried to deceive him either by making a false or misleading representation or by any other action or omission, nor is it his case that they offered him any fraudulent or dishonest inducement to deliver any property or to consent to the retention thereof by any person or to intentionally induce him to do or omit to do anything which he would not do or omit if he were not so deceived. Nor did the complainant allege that the first appellant pretended to be the complainant while executing the sale deeds. Therefore, it cannot be said that the first accused by the act of*



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*executing sale deeds in favour of the second accused or the second accused by reason of being the purchaser, or the third, fourth and fifth accused, by reason of being the witness, scribe and stamp vendor in regard to the sale deeds, deceived the complainant in any manner.”*

6. Thus, this Court is of the view that the petitioner has not committed any offences as alleged in the impugned FIR. If the petitioner had made any false claim of title over the property, it is needless to say that the Government can resort to other remedies available in law.

7. In such view of the matter, this Court is inclined to quash this petition. Hence, the Criminal Original Petition is allowed. Consequently, the connected miscellaneous petition is closed.

**13.06.2023**

*dk*

Index: Yes/No

Speaking Order / Non-Speaking Order

Neutral Citation: Yes / No



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To

- 1.Mr.Chandrakumar  
The Village Administrative Officer,  
Malayadipudur Village,  
Sathyamangalam Taluk,  
Erode District.
- 2.The Inspector of Police,  
Sathyamangalam Police Station,  
Erode District.
- 3.The Public Prosecutor,  
High Court of Madras,  
Chennai.



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**SUNDER MOHAN, J**

*dk*

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