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Crl.OP.No.17044 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.11.2023

CORAM:

THE HONOURABLE MR.JUSTICE **G.K.ILANTHIRAIYAN**

Crl.OP.No.17044 of 2019

and

Crl.MP.No.8574 of 2019

R.T.Shyamala

... Petitioner

Vs.

1.State of Tamilnadu,  
Rep. By Inspector of Police,  
V5, Thirumangalam Police Station,  
Chennai  
(crime No.39 of 2019)

2.S.N.Kulasekaran

... Respondents

**PRAYER:** Criminal original petition is filed under Section 482 of Cr.P.C. to call for the records in crime No.39 of 2019 on the file of the respondent police relating to the petitioner alone and to quash the same.

For Petitioner : Mr.K.M.Vijayan,  
Senior Counsel  
for Mr.S.P.Harikrishnan

For Respondents  
For R1 : Mr.L.Baskaran,  
Government Advocate(crl.side)

For R2 : No appearance



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**ORDER**

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This Criminal Original Petition has been filed to quash the proceedings in crime No.39 of 2019 on the file of the first respondent registered for the offences under Sections 465, 468, 471, 419, 420 & 120B of IPC as against the petitioner and others.

2. The second respondent lodged complaint alleging that he had purchased land admeasuring 10 cents on 16.08.1969 from one, Robert by a registered sale deed. In the year 1981 one, Bakkiaraj encroached part of the said land and put up a hut. When it was questioned, he said that he had purchased part of the property in the year 1981 by a registered sale deed. Therefore, the second respondent filed suit in OS.No.1911 of 1981 in respect of the said property and the same was decreed in his favour. In pursuant to the said decree, he filed execution petition in EP.No.181 of 1997. The Execution Court also ordered for delivery of possession in favour of the defacto complainant. However, one Soundararajan and one, Rajeswari obstructed from taking delivery of possession. They also filed suit before this Court and the same was also dismissed on 22.04.2013. However, the Hon'ble Supreme Court of India granted interim order in the appeal filed by them. While being so, the



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second respondent heard that the said Rajeswari died as early as on 07.02.2003

itself. Therefore, the counsel suppressed the fact that the said Rajeswari died and filed appeal in the death person's name. Therefore, the second respondent filed direction petition before this Court in Crl.OP.No.4983 of 2018. This Court directed the second respondent to lodge complaint. Accordingly, he lodged complaint before the Inspector of Police, Thirumangalam Police Station on 02.04.2018. No action was taken and as such, the second respondent once again approached this Court in Crl.OP.No.15697 of 2018 and this Court directed to register FIR in the said complaint lodged by the second respondent.

3. It was further alleged that one, Nagore and his assistant, Rathnaraj in order to grab the property in the year 1981, they registered the said land in favour of one, Bakkiaraj and Deva Anbu. After demise of the said Nagore, the said Rathnaraj transferred the property in the name of one, Rajeswari. She is a benami. All the cases were conducted on behalf of the said Rajeswari with funds given by the said Rathnaraj. Therefore, he handed over the subject land with one, Srinivasan who is a builder for construction of six flats. Therefore, he lodged complaint to take action against those persons and also the advocate who appeared on behalf of them. On receipt of the said complaint, the first



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respondent registered FIR in crime No.39 of 2019 for the offence under Sections 465, 468, 471, 419, 420 and 120(b) of IPC.

4. The petitioner is a practicing lawyer. Therefore, she knows the consequences with regard to a death person if she appeared for a death person in any case. One, Rajeswari filed CMA.No.56 of 2007 on the file of the IV Additional City Civil Judge, Chennai and she personally appeared before the said court and signed her vakalat. In fact, the second respondent filed petition for removal of obstruction as against the said Rajeswari and the same was dismissed by the Execution Court and aggrieved by the same, the second respondent filed civil revision petition before this Court and the same was also allowed. Aggrieved by the same, the said Rajeswari filed appeal before the Hon'ble Supreme Court of India. It was allowed on the ground that the civil revision petition filed against the dismissal of obstruction petition is not maintainable and only CMA is maintainable. Therefore, the second respondent filed CMA with delay of 3000 days. In the said case, the petitioner appeared on behalf of the said Rajeswari in the civil miscellaneous appeal. It was allowed and also confirmed by this court in a civil revision petition. Aggrieved by the same, the said Rajeswari filed appeal before the Hon'ble Supreme Court of



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India and received entire bundle from the petitioner. While being so, the second respondent filed the present complaint with false allegations.

5. The second respondent further alleged that the said S.Rajeswari W/o Subash Chandrabose died on 07.02.2003 and original Rajeswari is wife of Shanmuga Mudaliar. She was very much alive at the time of filing appeal before the Hon'ble Supreme Court of India. In fact, the same ground was raised before the Hon'ble supreme court of India and on receipt of the report from the District Judge, it was ordered on 16.02.2006 that as per the report submitted by the District Judge, Chennai dated 20.01.2006, the appellant S.Rajeswari is alive. Therefore, the Supreme Court does not wish to proceed under Section 340 of Cr.P.C. Once again, the second respondent now lodged complaint for the very same set of allegations that the petitioner filed cases in the death person's name. After filing an appeal before the Hon'ble Supreme Court of India, the petitioner did not appear for any case on behalf of the said Rajeswari. Therefore, the present FIR is nothing but clear abuse of process of law and it is liable to be quashed.



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6. Accordingly, the entire proceedings in crime No.39 of 2019 on the file of the first respondent is quashed and this criminal original petition is allowed. Consequently, connected miscellaneous petition is closed.

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Index :Yes/No

Internet : Yes/No

Speaking order/non-speaking order  
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To

1. Inspector of Police,  
V5, Thirumangalam Police Station,  
Chennai
2. The Government Advocate,  
High Court of Madras



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**G.K.ILANTHIRAIYAN, J.**

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