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Crl.O.P.No.23294 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.10.2023

CORAM:

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

CRL.O.P.No.23294 of 2021 and
Crl.MP.Nos.12768 & 12769 of 2021

1.Prakash
2.Mariyammal
3.Murugesan

... Petitioners

Vs.

1.State by Inspector of Police,
District Crime Branch, Erode,
(crime No.19 of 2010)
2.Thangavel

... Respondents

PRAYER: Criminal Original petition is filed under Section 482 of Criminal Procedure Code, to call for the records in CC.No.198 of 2019 on the file of the learned Judicial Magistrate No.II of Erode and quash the same.

For Petitioners : Mr.J.Ranjithkumar

For Respondents

For R1 : Mr.A.Gopinath,
Government Advocate(crl.side)

For R2 : No appearance

ORDER

This criminal original petition has been filed to quash the proceedings in CC.No.198 of 2019 on the file of the learned Judicial Magistrate No.II of Erode.



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2. The case of the prosecution is that the first accused forged the signature of the second respondent and submitted application in the Office of the District Collector and Tahsildar Office, Bhavani to survey the land in question and also to cancel the patta transfer in respect of the land comprised in survey No.RS.No.308/10 B,C,D. On the complaint received from the second respondent, the first respondent registered FIR in crime No.19 of 2010 for the offences under Sections 467, 468, 471 & 109 of IPC.

3. Heard, the learned counsel appearing for the petitioners. Though notice was served on the second respondent and his name is also printed in the cause list, no one appeared on behalf of the second respondent before this Court in person or through pleader.

4. There are totally three accused in which the petitioners are arrayed as A1 to A3. While pending quash petition, the first accused died. Even according to the case of the prosecution, the first accused only forged the signature of the second respondent and submitted application before the District Collector and Tahsildar to survey the land. The second and third petitioners are the mother and the brother of the first accused. Before filing the



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charge sheet, the first respondent did not take any steps to get opinion from the forensic science laboratory by comparing the signature found in the application with the original admitted signature of the second respondent. There was dispute between the petitioners' family and the second respondent who is being neighbour in respect of their respective lands.

5. On perusal of the alleged application submitted by the first accused, revealed that the application was submitted only on his behalf. That apart, on the said application, the Collector or the Tahsildar did not take any steps to survey the land and also did not order for any enquiry for transfer of patta. Now the first petitioner died on 08.01.2023. Therefore, the entire charges are abated against the first petitioner. Insofar as the second and third petitioners are concerned, they are none other than the mother and the brother of the first accused and they are nothing to do with the charges. The first petitioner submitted application, that too on his behalf. That apart, no specific averments as against the second and third petitioners to attract any of the offences as alleged by the prosecution. Therefore, the second and third petitioners are not held liable for any of the charges. Hence, the continuation of the trial would be in futile and as such, this Court is inclined to quash the entire proceedings.



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6. Accordingly, the entire proceedings in CC.No.198 of 2019 on the file of the learned Judicial Magistrate No.II of Erode is quashed and this criminal original petition is allowed. Consequently, connected miscellaneous petitions are closed.

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Index :Yes/No

Internet : Yes/No

Speaking order/non-speaking order
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To

- 1.The learned Judicial Magistrate No.II of Erode
- 2.The Inspector of Police,
District Crime Branch,
Erode
- 3.The Public Prosecutor,
High Court of Madras



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G.K.ILANTHIRAIYAN, J.

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