



WEB COPY

Crl.O.P.(MD)No.5883 of 2020



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 19.04.2023

Delivered on : **06.06.2023**

CORAM:

THE HONOURABLE MRS.JUSTICE **R.THARANI**

Crl.O.P.(MD) No.5883 of 2020

Mohamed Yusuf

... Petitioner / 8th Accused

Vs.

M.Kasi Viswanathan

... Respondent / Complainant

PRAYER: Criminal Original Petition is filed under Section 482 of Cr.P.C, to call for the records in C.C.No.497 of 2019, on the file of the Judicial Magistrate No.I, Tirunelveli and to quash the same inso far as the petitioner is concerned.

For Petitioner : Mr.D.Venkatesh

For Respondent : Mr.A.Sivasubramanian

ORDER

This petition is filed to quash the case in C.C.No.497 of 2019, on the file of the Judicial Magistrate No.I, Tirunelveli.



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2. The allegation against the petitioner is that on 04.06.2007, the third accused sold the property in Town Survey No.2624 favour of the first accused. Later on, he filed a rectification deed and modified the number as Town Survey No.2625. Based on the rectification deed, the first accused trespassed into the property of the respondent and he constructed a house by availing loan from Bajaj Finance Ltd., where, the fifth and sixth accused were working. The fourth accused being a tenant has paid rent and he got receipts for the same. Later, the fourth accused created some documents as if he is the owner of the property and he sold the property to the first accused. In the forged sale deeds, the third and fourth accused have signed as witnesses and a private complaint was lodged against the petitioner and others in C.C.No.497 of 2019, on the file of the Judicial Magistrate No.I, Tirunelveli.

3. On the side of the petitioner, it is stated that there is no ingredients in the complaint to attract the offence of forgery and cheating. The petitioner signed the documents only as a witness. The same could not constitute any offence, warranting criminal prosecution. There is no averments in the entire complaint to attract an offence of forgery or cheating against the petitioner. There is no overt act against



the petitioner and prayed that the case against the petitioner is to be quashed.

4. On the side of the respondent, it is stated that the property belonged to a Trust. T.S.No.252 was a pathway that belonged to Tirunelveli Corporation, other lands were leased out to the fourth accused and the fourth accused forged some documents and he executed the sale deed in favour of the first accused. The petitioner, knowing fully, well about the tenancy of the fourth accused, has signed the document as witness.

5. It is seen that the allegation is that the father of the third accused was a tenant in Survey No.2625 and the third accused sold a property in Survey No.2624 to the first accused, then, he filed a rectification deed, changing the Survey number as 2625. The fourth accused is also a tenant, he also executed a sale deed in favour of the first accused. The first accused obtained Bank loan through the fifth and sixth accused from Bajaj Finance Company Ltd.. The seventh and the eighth accused are the witnesses for the execution of the original sale deed.



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6. The claim of the petitioner is that they are not aware of the rectification deed. The claim of the respondent is that they are aware of the rectification deed and they colluded with the other accused. Whether the petitioner was aware of the offence at the time of execution of the sale deed cannot be decided at this stage. Whether the petitioner colluded with the other accused or whether the petitioner is an innocent witness can be decided only after the completion of the trial.

7. In view of the above circumstances, this Petition is dismissed.

NCC : Yes/No
Index : Yes/No
Ls

06.06.2023

To

1. The Judicial Magistrate No.I,
Tirunelveli.

2. The Section Officer, Criminal Section,
Madurai Bench of Madras High Court,
Madurai.



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R.THARANI. J.

Ls

Pre-delivery order made in
Crl.O.P.(MD)No.5883 of 2020

06.06.2023