



Crl.O.P.(MD)Nos.3904 and 4088 of 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **10.02.2023**

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CORAM:

THE HONOURABLE MR.JUSTICE **G.ILANGO VAN**

Crl.O.P.(MD)Nos.3904 and 4088 of 2019
and Crl.M.P.(MD).Nos.2304, 2305, 2435 & 2436 of 2019

Crl.O.P.(MD).No.3904 of 2019

1.Raju

2.Ramakrishnan

... Petitioners/Accused 3 & 6

Vs.

1.The State rep. by the
Inspector of Police,
District Crime Branch,
Dindigul,
Dindigul District.
(In Crime No.14 of 2016)

... 1st Respondent/Complainant

2.Alagendran @ Mani (Died) ... 2nd Respondent/Defacto Complainant

3.Suganya

4.R.M.Sowmya

... 3rd & 4th Respondents

(3rd and 4th respondents were suo motu impleaded as legal heirs of the 2nd respondent in this case vide order dated 21.03.2022)

PRAYER : Criminal Original Petition is filed under Section 482 of Cr.P.C, to call for the records relating to the charge sheet in C.C.No.573 of 2018 on the file of Judicial Magistrate Court No.II, Dindigul and



quash the same as illegal.

For Petitioners : Mr.Ajmal Khan, Senior Counsel
for M/s.Ajmal Associates

For Respondents : Mr.R.Sivakumar for R1
Government Advocate (Crl. Side)

R2 – Died

Mr.V.Kathirvelu, Senior Counsel
for Mr.K.Prabhu for R3 and R4.

Crl.O.P.(MD).No.4088 of 2019

Arumugam

... Petitioner/Accused No.4

Vs.

1.The State rep. by the
Inspector of Police,
Land Grabbing Special Wing,
Dindigul,
Dindigul District.
(Crime No.14 of 2016)

... 1st Respondent/Complainant

2.Alagendran @ Mani

... 2nd Respondent/Defacto Complainant

3.Suganya

4.R.M.Sowmya

... 3rd & 4th Respondents

PRAYER : Criminal Original Petition is filed under Section 482 of Cr.P.C, to call for the records relating to the charge sheet in C.C.No.573 of 2018 on the file of Judicial Magistrate Court No.II, Dindigul and quash the same as illegal as against the petitioner.



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For Petitioner : Mr.G.Gomathi Sankar

For Respondents : Mr.R.Sivakumar for R1
Government Advocate (Crl. Side)

R2 – Died

Mr.V.Kathirvelu, Senior Counsel
for Mr.K.Prabhu for R3 and R4.

COMMON ORDER

These criminal original petitions have been filed against the charge sheet in C.C.No.573 of 2018 on the file of Judicial Magistrate Court No.II, Dindigul.

2.The case of the prosecution in brief:

The defacto complainant namely Alagendran, Suganya and Sowmiya lodged a complaint that the District Crime Branch, Dindigul with the following allegations. They owned a property in Vembur Village measuring about 8.3 acres. On 24.09.2009, they executed a power of attorney in favour of first accused Mallammal. At the instance of third accused the above said Mallaammal sold the above said property through separate sale deeds to third accused. She received Rs.22,62,500/- from the third accused. But, she did not give the above said money to them. On coming to know about the above sale, they obtained certified copies



of the sale deed. They came to know that they affixed old photo of the first and second complainant. But in the place of the third complainant some other photograph was affixed. It is also known that they created false Life Certificate, as if they signed in the presence of the fourth accused. Before the fifth accused, accused Nos.6 & 7 have appeared as witnesses. On the basis of the above said complaint, case was registered and after completing the investigation process final report was filed and it was taken cognizance in C.C.No.573 of 2018. Pending trial process, these two petitions are filed by the accused Nos. 3 & 6 and accused No.4. Since common factual aspects are involved, both the matters are heard together and common order is passed.

3.Heard both sides and records perused.

4.From the preamble portion, it is seen that there is allegations of misappropriation, impersonation, forging all signatures and documents. When such serious allegations are made, it is nothing but proper to allow the trial process to proceed to its logical conclusion. But however, the counsels for the petitioners would submit that there was a dispute between the first accused and the defacto complainant. These petitioners were no way involved in the above said issues and they never



participated in the allegation of creating false records and impersonation, etc. Since power of attorney and as well as sale deeds are not denied, the accused Nos.3 & 6 as per the final report even their role is very limited; Allegation against third accused is that he entered into criminal conspiracy with the first accused and purchased the property; Since the third accused purchased the property in pursuance to the power of attorney, there was no occasion for him to involve in the above said crime; So far as 5th accused is concerned, he signed as a witness in the above said documents. According to the learned senior counsel for the petitioner his role is also very limited, since the power of attorney was standing in the name of the first accused, who in turn sold the same to the third accused, they could not have seen in a position to doubt the sale deeds. So far as the 4th accused is concerned, as per the allegation, he issued Life Certificate, as if the principal in the power of attorney is alive. Since the power of attorney are standing in the name of the first accused, he has also been wrongly roped in.

5. But as I mentioned earlier, the allegation against the 4th accused is that he issued the Life Certificate. Before them only the above said impersonation occurred.



6. Even though it is contended that only on the basis of the Life Certificate, he registered the document and there was no occasion for him to verify the genuineness of the Life Certificate etc. No doubt that the fourth accused has discharged his official duty. But there is a specific allegation to the effect that in the place of Sowmiya another person's photograph has been affixed. So it was the duty of the fourth accused to verify the genuineness of the above said document. But that was not done. Whether any criminal liability is attached on the basis of the above said official duty is a matter for consideration during the trial process. Therefore, when the case of impersonation has been alleged, as I mentioned earlier, it is nothing but proper to allow the trial process to its logical conclusion. Quashing of this nature of cases may not be in the interest of the justice. So I am of the considered view that both the petitions deserves to be dismissed. Accordingly, **dismissed**.

7. However, personal appearance of the fourth accused is dispensed with before the trial Court, since he is retired Sub Registrar on certain conditions.

(i) The petitioner in Crl.O.P.(MD).No.4088 of 2019/4th accused shall appear before the learned Judicial Magistrate No.II, Dindigul, within a period of 15 days from the date of receipt of a copy of this order and file an undertaking



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affidavit, by affixing his recent passport size photograph, to the effect that he will appear before the trial Court as and when required and must ensure his proper representation through Advocate.

So far other petitioners are concerned, they must appear before the trial Court regularly. Consequently, connected miscellaneous petitions are closed.

10.02.2023

Index : Yes/No
Internet : Yes/No
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To

- 1.The Judicial Magistrate Court No.II, Dindigul.
- 2.The Inspector of Police,
District Crime Branch,
Dindigul,
Dindigul District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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G.ILANGOVA. J.

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