



Crl.O.P.(MD).No.11126 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED :09.08.2023

CORAM:

THE HONOURABLE MR. JUSTICE P.DHANABAL

Crl.O.P.(MD).No.11126 of 2020

and

Crl.M.P(MD) No.5047 of 2020

1. Ayyanar

2. Rajeswari

3. Aravinthan

4. Sethupathi @ Pandian

... Petitioners

Vs.

1. The Inspector of Police
Krishnan Kovil Police Station,
Virudhunagar District

2. Guruviah

..Respondents

PRAYER: This Criminal Original Petition has been filed under Section 482 of Criminal Procedure Code, to call for the records in C.C. No.94 of 2017 on the file of the learned Judicial Magistrate No.II, Srivilliputhur and quash the same as illegal.

For Petitioners : Mr.M.Jothi Basu

For R-1 : Mr.M.Sakthi Kumar
Government Advocate(Crl.Side)

For R-2 : No appearance



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ORDER

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This Criminal Original Petition has been filed to quash the proceedings in C.C. No.94 of 2017 on the file of the learned Judicial Magistrate No.II, Srivilliputhur.

2. Already this petition was dismissed as withdrawn as against the petitioners 1,2 and 4 and the case is now pending as against the third petitioner alone.

3. According to the petitioner he has been falsely implicated in the case for the offences under Sections 419,420,465,467,120(B), 294(b), 506(ii) of IPC in C.C. No.94 of 2017 on the file of the learned Judicial Magistrate No.II, Srivilliputhur. The case of the prosecution is that the defacto complainant has purchased the property situated in Plot No.1187/1, 1187/1A, 1189/3B situated at Villupanur Village, Srivilliputhur Taluk, Virudhunagar District. Further it is stated that on 07.03.2013 the first accused and the defacto complainant had entered into sale agreement for a sum of Rs.22,75,000/- and on the same day itself a sum of Rs.5,00,000/- was paid as advance, to the sale consideration. Thereafter on various dates payments were made and in total a sum of Rs.19,61,000/- was paid to the first accused and then he paid the amount to the second accused. The third and fourth accused



were also present at the time of the above said payments made by the defacto complainant. The second accused received the amount in the name of Murugeswari and thereafter the defacto complainant came to know that the second accused name is Rajeswari. Hence she committed impersonation and received the amount. Further after the police complaint on 13.12.2013 the first accused promised the defacto complainant and agreed to execute sale deed within a period of 15 days. Thereafter the defacto complainant approached Murugeswari and paid a sum of Rs.5,00,000/- on 11.07.2014 and thereafter on 21.08.2014 paid a sum of Rs.3,00,000/- and registered the sale deed. On 14.11.2014 at about 9.00 a.m., the defacto complainant approached the accused and demanded to repay the amount at that time they threatened and abused him in filthy language and hence on 29.01.2015 he lodged complaint before the police and they registered a case in Crime No. 19 of 2015 for the offences under Sections 419, 420, 464, 467, 506(ii) of IPC. Thereafter the police have filed final report and even according to the final report the list witnesses are close relatives and they are hearsay witnesses and no case is made out as against this petitioner and hence the proceedings in C.C. No.94 of 2017 on the file of the learned Judicial Magistrate No.II, Srivilliputhur is liable to be quashed.

4. No counter was filed by the respondents.



5. The learned counsel appearing for the petitioner would contend that second respondent has given a false complaint against this petitioner and others before the first respondent and the first respondent has registered a case in Crime No. 19 of 2015 for the offences under Sections 419,420,464,467,120(B),294(b)506(ii) of IPC and after investigation the first respondent filed final report and even based on the final report no any *prima facie* case is made out as against this petitioner and already other petitioners i.e., 1,2 and 4 withdrawn the petition and now the petition is pending as against the third petitioner alone. All the witnesses are relatives and no *prima facie* case is made out as against this petitioner and hence the above said case which is pending before the trial Court is liable to be dismissed.

6. The learned Government Advocate(Crl.Side) appearing for the first respondent would submit that based on the complaint given by the second respondent, the first respondent has registered the First Information Report in Crime No. 19 of 2015 for the offences under Sections 419,420,464,467,120(B) and 294(b) 506(ii) of IPC. After investigation the first respondent filed final report before the trial Court and the same was taken on file in C.C. No.94 of 2017 and the case was posted for examination of witnesses. Since *prima facie* materials are available it is matter for trial and the petitioner has to appear before the trial Court and face trial, thereby this petition is liable to be dismissed.



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7. Heard both sides and perused the materials available on record.

8. On perusal of the records, it is observed that based on the complaint given by the second respondent, the first respondent has registered case against the petitioner and others. Already this petition was dismissed as withdrawn as against the petitioners 1,2 and 4 and now the third petitioner alone is contesting the petition. According to the petitioner a false case has been foisted against him and no *prima facie* materials are available as against him to proceed with the case. According to the first respondent they investigated the case and as per the investigation *prima facie* materials are available and also filed final report and the case is posted for examination of witness.

9. Considering the representation made by the learned counsel appearing on either sides and also considering the fact that the first respondent conducted elaborate investigation and as per the investigation there are *prima facie* materials available as against the petitioner to proceed with the case and also the learned Magistrate has taken cognizance in C.C. No.94 of 2017, hence at this stage this Court cannot quash the charge sheet since *prima facie* materials are



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available. Further as per the guidelines issued by the Hon'ble Apex Court in the case of ***Neeharika Infrastructure Pvt Ltd vs. State of Maharashtra and Others*** reported in ***2021 SCC Online SC 315***, this Court is not inclined to allow this petition. However the case is pending from the year 2015 and thereby it is appropriate to direct the trial Court to complete the trial proceedings within the stipulated time.

10. Accordingly the trial Court is directed to complete the trial within a period of six months from the date of receipt of a copy of this order.

11. At this juncture, the learned counsel appearing for the petitioner represented before this Court that the personal appearance of the petitioner before the trial Court may be dispensed with.

12. As far as dispensing with the personal appearance of the petitioner before the trial Court is concerned, it can only be decided by the trial Court on application filed by the petitioner. On such application, the trial Court is directed to consider the same on merits in accordance with law. All the grounds raised by the petitioner in this petition can be agitated before the trial Court.



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13. With the above observations and directions, this criminal original petition is disposed of. Consequently connected miscellaneous petition is closed.

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Index : Yes / No
Internet : Yes / No
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To

1. The Judicial Magistrate No.II, Srivilliputhur
2. The Inspector of Police
Krishnan Kovil Police Station,
Virudhunagar District
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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P.DHANABAL, J.

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