



Crl.O.P.(MD)No.12761 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 13.09.2023

CORAM

THE HON'BLE MR.JUSTICE P.DHANABAL

Crl.O.P.(MD)No.12761 of 2020
and Crl.M.P.(MD)No.5838 of 2020

Muthuvel

... Petitioner

Vs.

1.The State Rep by its
The Inspector of Police,
E-3, Anna Nagar Police Station(Crime),
Madurai City.
(Crime No.1142 of 2015)

2.Sasikala

... Respondents

PRAYER : Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to call for the records pertaining to FIR in Crime No.1142 of 2015 on the file of the respondent police and quash the same as illegal as against the petitioner is concerned.

For Petitioner : Mr.J.Jeyakumaran

For R1 : Mr.R.M.Anbunithi,
Additional Public Prosecutor

For R2 : No Appearance



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ORDER

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This Criminal Original Petition has been filed to quash the First Information Report in Cr.No.1142 of 2015 pending on the file of the first respondent police as against the petitioner.

2.According to the petitioner, based on the complaint given by the second respondent, the first respondent registered a case in Cr.No.1142 of 2015 for the offence under Section 420 IPC. The petitioner herein is arrayed as A1 and he has not committed any offence as alleged by the prosecution. As per prosecution, there are two named accused and some unknown accused in this case. The petitioner and A2 are brothers. It is stated in the complaint that the petitioner, A2 and their brother have deposited three deeds i.e., partition deed dated 25.08.1975, sale deed dated 14.09.1959 and deed of cash receipt dated 14.06.1979, before the Canara Bank, Mela Avani Moola Street Branch, Madurai, in the year 1987 for loan purpose. Since there was default in repaying the loan amount, the Bank filed a suit for recovery of dues in O.S.No.891 of 1990 on the file of the II Sub Court, Madurai and preliminary decree was passed on 25.02.1992 and thereafter, final decree was passed on



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02.09.1992. In the mean time, the petitioner and his brother have illegally taken away the above said documents, which was filed before the Court and then, mortgaged the same in the Union Bank of India, Kochadai Branch, Madurai. Since there was a default in repaying the loan, the Union Bank of India filed a suit in O.S.No.394 of 2000 on the file of the 1st Additional Sub Court, Madurai and preliminary decree was passed. Thereafter, the matter was settled and the above said documents were returned to the Bank. While so, in respect of the first loan with the Canara Bank, they filed E.P.No.19 of 2003 and at that time, they came to know that the marked documents in Ex.A5, Ex.A6 and Ex.A7 in O.S.No. 891 of 1990 on the file of the II Sub Court, Madurai were illegally taken without permission of the Court. Initially, on 06.06.2006, one Tamilarasi and Karthick lodged a complaint before the Principal District Court, Madurai and the learned Principal District Judge, Madurai, directed the Principal Sub Judge, Madurai to conduct enquiry and based on the enquiry, the learned Principal Sub Judge, Madurai closed the matter as there is no proof to show that the petitioner are not involved in the above said illegal acts. While being so, the second respondent, who is Sheristradar, lodged a complaint before the respondent police and based



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on the same, the present FIR came to be registered. Since already the learned Principal Sub Judge, Madurai has made an observation that the petitioner has not involved in the occurrence, pending FIR in Cr.No. 1142 of 2015 for the offence under Section 420 IPC is pure abuse of process of law. Therefore, the impugned FIR is liable to be quashed.

3.No counter was filed by the respondents.

4.The learned counsel appearing for the petitioner would submit that the petitioner is arrayed as A1 in the above said FIR and he has not committed any offence as alleged in FIR. The petitioner has no knowledge about the above said documents filed before the trial Court. Already, there was a complaint given before the learned Principal District Judge, Madurai in respect of some missing documents from the Court and the learned Judge has directed the learned Principal Sub Judge, Madurai to conduct enquiry and as per enquiry, the petitioner has not involved in the occurrence and thereby, there is no materials to implead him as an accused in the impugned FIR. But the second respondent, who is working as Sheristradar in Principal Sub Court Madurai, has given the present complaint and based on the same, FIR



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was registered in Cr.No.1142 of 2015 for the offence under Section 420 IPC. Therefore, without any materials, FIR has been registered and the same is abuse of process of law. Hence, the impugned FIR is liable to be quashed.

5.The learned Additional Public Prosecutor appearing for the first respondent would submit that the father of the petitioner has produced the documents before the Court in O.S.No.891 of 1990 and final decree was passed on 02.09.1992 and thereafter, execution petition was also filed in the year 2003. In the meantime, the above said documents were taken away by the accused without knowledge of the Court and the same were mortgaged before another Bank. Thereby, complaint was given by the Sheristradar of the Prinicpal Sub Court, Madurai and based on the same, the present FIR has been registered in Cr.No.1142 of 2015 for the offence under Section 420 IPC. The investigation in this case is in initial stage. Since this Court granted interim stay, the first respondent is not in a position to investigate the matter further. Therefore, at this stage, this petition is liable to be dismissed.



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7. On perusal of records reveals that the documents namely, partition deed dated 25.08.1975, sale deed dated 14.09.1959 and deed of cash receipt dated 14.06.1979 were produced before the II Sub Court, Madurai in O.S.No.891 of 1990. In the said suit, final decree was passed on 02.09.1992 and thereafter, E.P.No.19 of 2003 was also filed by the Bank. In the meantime, the above said documents were mortgaged in another Bank i.e. Union Bank of India, Kochadai Branch by the petitioner and his father. Without knowledge of the Court, the above said documents have been taken away and the same were mortgaged by the accused persons. Therefore, complaint was lodged by the second respondent, who was working as Sheristadar in Principal Sub Court, Madurai and based on the same, the present FIR has been registered. Since the documents were taken away from the Court and the offences are grave in nature, this case requires elaborate investigation and at this FIR stage, the investigation of the police cannot be scuttled.



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8.The learned counsel appearing for the petitioner brought to the knowledge of this Court that already, based on the complaint given by one Tamilarasi and Karthick, dated 06.06.2006, before the Principal District Court, Madurai, the learned Principal Sub Judge, Madurai conducted enquiry and filed a report before the learned Principal District Judge, Madurai stating that there is no proof to show that the petitioner was involved in the said illegal acts.

9.Though the enquiry conducted by the learned Judge was closed, since the documents were taken from the Court premises, elaborate investigation required in this case and hence, the contention of the petitioner's counsel that already enquiry closed is not acceptable. In view of the above discussions, this Court is of the view that this petition has no merits and deserves dismissal. Accordingly, this criminal original petition is dismissed. Consequently, connected miscellaneous petition is closed.

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NCC : Yes / No
Index : Yes / No
Internet : Yes / No
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P. DHANABAL,J.

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To

- 1.The Inspector of Police,
E-3, Anna Nagar Police Station(Crime),
Madurai City.
- 2.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

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