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Crl.O.P(MD).No.14271 of 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 06.02.2023

CORAM:

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

Crl.O.P.(MD)No.14271 of 2019

and

Crl.M.P(MD) Nos.8639 and 8640 of 2019

R.T.Suresh

... Petitioner/ Accused No.2

Vs.

Sulachona Bai

... Respondent / Defacto -
Complainant

PRAYER: Criminal Original Petition is filed under Section 482 of Cr.P.C., to call for the records relating to the proceedings in C.C.No.53 of 2019 on the file of the learned Judicial Magistrate No.II, Kuzhithurai and quash the same as it has no prima facie case as against the petitioner.

For Petitioner : Mr.Ananth C.Rajesh

For Respondent : Mr.K.M.Appaji

ORDER

This petition has been filed to quash the proceedings in C.C.No.53 of 2019 on the file of the learned Judicial Magistrate No.II,

Kuzhithurai.



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2. The case of the respondent/complainant is that her father Late.Siva Sankaran Nadar had executed a sale deed in her favour as shreedhana vide document No.4558/1978, dated 07.09.1978, that the first accused has been mentioned as guardian of the respondent, that the respondent came to know in the year 2018 that the petitioner along with the first accused has forged a lease deed, dated 29.11.1980 vide document No.6500 of 1980 as if it was executed by the father of the respondent, that on the basis of the respondent's complaint, the District Crime Branch, Kanyakumari District at Nagercoil registered a case in Cr.No.15 of 2018, that the police, after investigation, has filed a final report dated 01.10.2018 referring the case as mistake of fact and that therefore the respondent was constrained to file the above private complaint.

3. The learned counsel for the petitioner submitted that the petitioner is the second accused and the first accused filed Crl.O.P(MD).No.6441 of 2019 to quash the proceedings in C.C.No.53 of 2019, and he has also relied on several judgments to quash C.C and this Court by order dated 31.01.2022 allowed the petition and quashed C.C. 53 of 2019 on the file of the learned Judicial Magistrate No.II, Kuzhithurai as against the first accused. The relevant paragraph in



" Though the learned Magistrate has taken cognizance for the offences under Sections 465, 419, 420, 406 and 471 I.P.C., there are absolutely no material indicating the guilt of the petitioner. But the learned Magistrate, in the absence of any material, has taken cognizance only on the basis of the averments raised in the complaint. No doubt, adequacy of evidence cannot be gone into at the time of taking cognizance of the case, but there must be some materials implicating the accused. Considering the above, this Court is of the view that initiation of proceeding is clearly an abuse of process of Court and the same is liable to be quashed."

4. On perusal of records shows that it is a civil dispute between the parties.

5. The learned counsel for the petitioner submitted that the benefit of the above said order can be extended to the petitioner also, since this petitioner also standing on the same footing, on that ground, this petition is liable to be allowed.



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6. In the result, the Criminal Original petition is allowed and the proceedings in C.C.No.53 of 2019, pending on the file of the learned Judicial Magistrate No.II, Kuzhithurai as against the petitioner is quashed. Consequently, the connected miscellaneous petitions are closed.

06.02.2023

Index :Yes/No
Internet:Yes/No
tta

To

Judicial Magistrate No.II, Kuzhithurai



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G. ILANGO VAN, J.

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