



CrI.O.P(MD)No.19620 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 15.12.2023

CORAM

THE HON'BLE MR JUSTICE K.K. RAMAKRISHNAN

CrI.O.P(MD).No.19620 of 2021
and
CrI.M.P(MD).Nos.10982 and 10985 of 2021

Rani

... Petitioner

Vs.

1. State rep.by
The Inspector of Police,
Bodinayakkanur Police Station,
Theni District.
(Crime No.221 of 2017)

2. V.J.T.Vincent

... Respondents

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C.,
praying to call for the records relating to the case in C.C.No.488 of 2018 on
the file of the Judicial Magistrate, Bodinayackkanur, Theni District and
quash the same as against this Petitioner/Accused No.1.

For Petitioner :Mr.R.Suriyanarayanan

For Respondents :Mr.M.Muthumanikkam,
Government Advocate(CrI.Side)
for R1

: Mr.M.Kaliraj for R2



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ORDER

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This Criminal Original Petition has been filed as against C.C.No.488 of 2018, on the file of the Judicial Magistrate, Boodinayackkanur, Theni District and quash the same as against the petitioner/Accused No.1.

2. The facts in brief is as follows:

A complaint was lodged by the defacto complainant stating that his father viz., Dthomas was owning a property in Town Survey No.1/37, admeasuring 18 cents. It was a government Porambokku land. He put up a house and shop in that land. In 1962, Patta was granted in favour of his father. The said Dthomas, has filed the suit to get patta for the said property during his life time and he got favourable order. After the demise of the said V.J.Dthomas, the mother of the defacto complainant namely Elisabeth has proceeded the case and got patta in her name. Thereafter, the petitioner and the other sisters of the defacto complainant have made a partition deed among themselves and hence, the defacto complainant has filed a civil suit in O.S.No.148 of 2014. While the above suit was pending, the petitioner herein and the second accused, namely Abdul Bari, created a forged town survey field map of Boodinayackkanur municipality and the same was



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placed before the Sub Registrar Office, Bodinayakkanur and registered a sale deed in favour of the second accused. Therefore, the petitioner and the second accused have cheated the defacto complainant and the second accused is trying to grab the property with the help of rowdy elements. Thereafter, the defacto complainant gave a complaint before the first respondent police and the same was registered under Section 452, 420, 465, 468, 471 and 506(ii) of IPC. After completing the investigation, a final report also filed, alleging that all the accused persons joined together, conspired and created false records.

3. The learned counsel for the petitioner submitted that he is only a *bonafide* purchaser and as such, the dispute is between the vendor and the defacto complainant. He never involved in the fabrication of Government records. Further, he requested this Court to dispense with the appearance of the petitioner before the trial Court.

4. The learned Government Advocate would submit that this petitioner also joined with the first accused and created false documents. Hence, he seeks for dismissal of this case.



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5. The learned counsel for the defacto complainant/the second respondent submitted that the co-accused filed a discharge petition and the same was dismissed. As against the same, he filed Crl.R.C.(MD).No.1103 of 2022 and the same was also dismissed. Therefore, he seeks for dismissal of this petition.

6. This Court has considered the submissions made by the learned counsel appearing on either side and perused the materials available on record.

7. From the materials collected by the investigating agency, it is clear the petitioner and other accused conspired together and created the false document namely town survey field map and using the same, they entered into further sale transaction between them and therefore the investigating agency filed the final report against them under the offence 452, 420, 465, 468, 471 and 506(ii) of IPC. The investigating agency examined the official witnesses who specifically stated that the town survey field map relied by the accused to register the sale transaction is forged one and the officers



denied their signatures in the said forged documents. There are sufficient materials to presume the falsification of documents. Apart from that, the land belongs to the Government. The petitioner and all other accused belong to the same village. They have the proper knowledge about the Government land. In the said circumstances, they forged the town survey field map and got registration with active connivance with the other accused. The Hon'ble Supreme Court in the case ***A.S.Krishnan and others Vs. State of Kerala*** reported in ***2004 11 SCC 576***, held that the knowledge is an awareness on the part of the person concerned indicating his state of mind. Hence, whether the petitioner is having knowledge are not as matter for trial. Further, the defence of the petitioners cannot be looked into under Section 482 of Cr.P.C., jurisdiction. Hence, in all aspects, this petition is liable to be dismissed.

8. Therefore, in view of the special circumstances of this case, the contention of the petitioner that he is a *bona fide* purchaser and the attester of the document cannot be accepted. Whether they have knowledge or intention in the above fraudulent transaction is a matter for trial. Further, sufficient materials are available to frame the charges against the petitioner



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ie., she joined hands with the second accused in fabricating the above said records. When serious allegations of fabrication of Government records are made to usurp the property of the Government, unless a strong case is made out by the petitioner, he is not entitled for quashment of proceedings. The co-accused filed discharge petition and the same has been dismissed by this Court. Hence, this Criminal Original Petition is disposed of with the following directions.

9.1.The petitioner is hereby permitted to raise all the points before the trial Court.

9.2. The appearance of the petitioner is dispensed with before the trial Court on all hearing dates except the following hearings:

- (i) The date of furnishing copies under Section 207 Cr.P.C, and initial questioning to answer the charges;
- (ii) The date of questioning under Section 313 Cr.P.C;
- (iii) On the date of Judgment.

9.3. The petitioner is directed to give an undertaking in the form of affidavit that she will be duly represented by a counsel on all hearing dates.



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- (i) The petitioner shall not dispute the identity of the witnesses.
- (ii) The petitioner shall appear before the Court whenever her presence is insisted by the trial judge for the purpose of identification.

9.4. If the petitioner adopt any dilatorily tactics, it is open to the Trial Court to insist for her appearance and to deal with the petitioner in accordance with the judgment of the Hon'ble Supreme Court of India in *State of Uttar Pradesh Vs.Shambunath Singh*, reported in *2001(4) SCC 667*.

Consequently, connected miscellaneous petitions are closed.

15.12.2023

NCC:Yes/No
Index:Yes/No
Internet:Yes/No
sbm



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To

1. The Judicial Magistrate,
Bodinayackkanur, Theni District.

2. The Inspector of Police,
Bodinayakkanur Police Station,
Theni District.

3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.



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K.K. RAMAKRISHNAN,J.

sbn

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