



Crl.O.P.(MD).No.20857 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 15.09.2023

CORAM

THE HONOURABLE MR. JUSTICE M.NIRMAL KUMAR

Crl.O.P.(MD).No.20857 of 2021

and

Crl.M.P.(MD).No.11953 of 2021

C.Ragu

... Petitioner/Accused No.7

Vs.

**1.The Inspector of Police,
District Crime Branch Police Station,
Theni,
Theni District.
(Crime No.3 of 2020).**

...1st Respondent/Complainant

2.P.Sugumar

...2nd Respondent/Defacto Complainant

Prayer : Criminal Original Petition filed under Section 482 of Cr.P.C, to call for the records relating to the FIR in Crime No.3 of 2020 on the file of the 1st respondent police and to quash the same insofar as the 7th Accused is concerned.

For Petitioner	: Mr.N.Pragalathan
For R-1	: Mr.R.Meenakshi Sundaram, Additional Public Prosecutor
For R-2	: Mr.R.Ramanujam for Mr.K.Kubendran



Crl.O.P.(MD).No.20857 of 2021

WEB COPY

ORDER

The petitioner, who is A7 in Crime No.3/2020 for the offences under Sections 120B, 419, 420, 465, 468 and 471 IPC, has filed this quash petition.

2. The gist of the case is that a property to an extent of 3 acres in Survey No.17/17, Kodangipatti Village, Theni District was assigned to the second respondent's father, namely, Palanisamy by proceedings in D.K.T.No.190.87 issued by the Special Tahsildar, Uthamapalayam. The said Palanisamy died on 27.03.2010. Thereafter, a sale deed was executed in favour of one K.Malaichamy (A1), by impersonating as Palanisamy after his death, by Document No.2939/2017 dated 13.06.2017. The second respondent/defacto complainant had lodged a complaint on 08.08.2019 and an enquiry was conducted. Sensing the same, the accused herein have cancelled the sale deed by cancellation deed vide Document No.6172/2019 dated 14.08.2019. Hence, a case got registered on the complaint of the defacto complainant against nine persons and the petitioner was arrayed as A7.

3. The contention of the petitioner is that he is a practising Advocate and he had only drafted the documents in both the sale deed in Document



Crl.O.P.(MD).No.20857 of 2021

No.2939/2017 and the cancellation deed in Document No.6172/2019. He had prepared the documents on the instructions of A1, A2 and others. The particulars about the sale documents were all furnished by the accused, based on which, he drafted the sale deed as well as the cancellation deed and the registration authorities, on enquiry, registered both the documents. The learned counsel for the petitioner submitted that the accused herein coming to know about the mistake committed in the execution of the sale deed have also voluntarily cancelled the sale deed and now whatever encumbrance created has been removed. The defacto complainant is enjoying the property without any encumbrance. Hence, the continuation of the investigation is nothing, but a harassment with an ulterior motive as regards the petitioner, who is only a practising Advocate. Hence, the learned counsel prayed for quash of FIR in Crime No.3/2020 as against the petitioner alone.

4. The learned Additional Public Prosecutor appearing for the respondent Police filed a status report and submitted that based on the complaint of the second respondent/defacto complainant, a case was registered in Crime No.3/2020 and the petitioner, since he was an Advocate, was not arrested, but he had not appeared for enquiry. Now a case was registered against nine persons. A1 is Malaichamy, who obtained anticipatory bail, A2 is Paulkannan,



Crl.O.P.(MD).No.20857 of 2021

A3 is Lokeshwari, who had also obtained Anticipatory Bail, A4 is Raja, A5 is Poun, A6 is Ramani, A7 is the petitioner herein, A8 and A9, namely, Saravanan and Bharathi are no more. All the accused have conspired together, created forged documents and attempted to sell the property of the defacto complainant. On coming to know about the action being taken against them, they had cancelled the forged sale deed. Further, in this case, documents have been collected from the Sub Registrar Office and now investigation is almost at the penultimate stage. Charge sheet would also be filed within a few months. The learned Additional Public Prosecutor submitted that the petitioner had knowingly created forged documents. Hence, he strongly opposed the quash petition.

5. The learned counsel for the second respondent/defacto complainant submitted that the petitioner is a nearby resident and he is well aware about the death of the defacto complainant's father, Palanisamy and he is also the close associate of A1 and A2. Using A2 and impersonating as Palanisamy, it is this petitioner, who is the man behind the entire episode. The petitioner though claims to be an Advocate, he is not seriously a practising Advocate and he is indulging in similar activities of creating forged documents and thereby enriching himself in connivance with the other accused. In this case, since the



Crl.O.P.(MD).No.20857 of 2021

defacto complainant was in possession and enjoyment of the property, they were not aware about the impersonation and creation of forged documents in the year 2017. Thereafter, when the defacto complainant came to know about the forged documents, he had lodged a complaint in the year 2019. The recitals in the cancellation deed confirms the illegal act and the intent of the petitioner. The petitioner had played an active role in creating both the sale deed and the cancellation deed and hence, the learned counsel strongly opposed the quash petition.

6. Considering the submissions made on either side and finding that the major portion of the investigation is completed and documents are collected and the petitioner has also volunteered to co-operate with the investigation to prove his innocence, notice under Section 41 A CrPC can be issued to the petitioner for the purpose of investigation and during investigation, if the contention of the petitioner finds credibility, the same shall be considered and appropriate steps shall be taken while filing the charge sheet in this case. In any event, investigation shall be completed and charge sheet shall be filed within a period of three (3) months from the date of receipt of a copy of this order.



Crl.O.P.(MD).No.20857 of 2021

WEB COPY

7. With the above direction, the Criminal Original Petition is disposed of.

Consequently, connected miscellaneous petition stands closed.

15.09.2023

NCC : Yes / No
Index : Yes / No
Internet : Yes/ No
Lm

To

- 1.The Inspector of Police,
District Crime Branch Police Station,
Theni,
Theni District.
- 2.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



WEB COPY



Crl.O.P.(MD).No.20857 of 2021

M.NIRMAL KUMAR, J.

Lm

Crl.O.P.(MD).No.20857 of 2021

15.09.2023