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Crl.O.P.No.2466 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.02.2024

CORAM

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

Crl.O.P.No.2466 of 2024
and
Crl.M.P.Nos.1768 & 1769 of 2024

K.Kumar
S/o.Kannaiyya

...Petitioner

Vs

1.State represented by
The Inspector of Police,
CCB-II, Chennai.

2.Nirmala Premkumar Dennisan
W/o.Premkumar Dennisan

... Respondents

PRAYER : Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, 1973, praying to call for the records in C.C.No.218 of 2023 on the file of Judicial Magistrate I, Poonamallee and quash the same.

For Petitioner : Mr.J.Sudhakaran

For Respondents : Mr.A.Gopinath
Government Advocate [Crl.side] [R1]



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ORDER

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2. The memo is taken on file. Registry is directed to carry out necessary correction in all the concerned records.

3. This petition has been filed seeking to quash the proceedings in C.C.No.218 of 2023 pending on the file of Judicial Magistrate I, Poonamallee.

4. The petitioner has been arrayed as A3 on the ground that after the earlier fake transaction that took place in the year 2016 between A1 and A2, a Power of Attorney document was executed by petitioner (A3) in the year 2018. Learned counsel for petitioner submitted that subsequently, the Power of Attorney document was also cancelled in the year 2019. Therefore, the petitioner cannot be proceeded against without any materials.



5. In the instant case, the property was sold in favour of the second respondent as early as in the year 1985 itself through a registered sale deed dated 29.03.1985. The same property has been dealt with in the year 2016. The petitioner came into the scene in the year 2018 when the Power of Attorney was executed in his favour. There is a charge of criminal conspiracy and therefore, for the present, this Court can only take into consideration the *prima facie* materials.

6. The grounds raised by learned counsel for petitioner are all factual in nature and it requires appreciation of evidence and this Court cannot decide the same in exercise of its jurisdiction under Section 482 of Criminal Procedure Code. The facts of this case and grounds raised in the quash petition do not fall within the parameters laid down by the Apex Court in ***State of Haryana and others v. Bhajanlal and others [(1992) Suppl (1) SCC 335]***. It is left open to the petitioner to raise all the grounds before the Court below and the same shall be considered on its own merits and in accordance with law. This Court is not inclined to interfere with the proceedings pending before the Court below.



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7. Learned counsel for the petitioner requested this Court to dispense with the presence of the petitioner. Taking into consideration, the facts and circumstances of the case, the presence of the petitioner is dispensed with and he shall be represented by a counsel, who shall cross examine the witnesses on the same day, they are examined in Chief. The petitioner shall be present before the Court below at the time of initial questioning, at the time of answering the charges, at the time of questioning u/s.313 Cr.P.C. and at the time of passing of final judgment and as and when required by the Court below. The petitioner shall also execute a bond u/s.88 Cr.P.C. before the Court below.

8. Accordingly, this Criminal Original Petition is disposed of with a direction to the Court below to complete the proceedings in C.C.No.218 of 2023 within a period of six (6) months from the date of receipt of a copy of this order.

The trial shall be conducted on a day to day basis in accordance with the guidelines given by Hon'ble Supreme Court reported in ***Vinod Kumar Vs State of Punjab [2015 (1) MLJ (Crl) 288 SC]***. If the petitioner adopts



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any dilatory tactics, it is open to the trial Court to insist upon the presence of the petitioner and remand him to custody as per the judgment of the Hon'ble Supreme Court in ***STATE OF UTTAR PRADESH VS. SHAMBHU NATH SINGH (JT 2001 (4) SC 3191)***. Consequently, connected miscellaneous petitions are closed.

09.02.2024

Index : Yes/No
Speaking order: Yes/No
Neutral citation: Yes/No
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To

- 1.The Judicial Magistrate I,
Poonamallee.
- 2.The Inspector of Police,
CCB-II, Chennai.
- 3.The Public Prosecutor,
High Court, Madras.



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N.ANAND VENKATESH, J

gm

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