



Crl.O.P.No.9346 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.02.2024

CORAM:

THE HON'BLE MRS.JUSTICE T.V.THAMILSELVI

Crl.O.P.No.9346 of 2022

and

Crl.M.P.No.5427 of 2022

L.B.Shankar

... Petitioner

Versus

1. State rep. by
The Sub-Inspector of Police,
CCB, Salem City.
(Crime No.01 of 2022)

2. Durgashankar Dhakad

... Respondents

PRAYER : Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to call for the records in F.I.R. No.01 of 2022 dated 20.03.2022 on the file of the 1st respondent herein and quash the same by allowing this Criminal Original Petition.

For Petitioner : Mr.R.Marudhachalamurthy

For Respondents : Mr.S.Vinoth Kumar,
Govt. Advocate (Crl. Side) for R1

No appearance for R2



Crl.O.P.No.9346 of 2022

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ORDER

This Criminal Original Petition has been filed seeking to quash the F.I.R. in Crime No.01 of 2022 on the file of 1st respondent police.

2. Heard both learned counsel for petitioner as well as learned Government Advocate (Crl. Side) appearing for 1st respondent. Despite service of notice, there is no representation on the side of 2nd respondent.

3. The petitioner is ranked as A4 in the F.I.R. in Crime No.01 of 2022 registered for an offence under Sec.420, 406, 419, 466, 465, 474 and 109 of I.P.C. based on the complaint given by the 2nd respondent/defacto complainant.

4. Brief facts of the case is as follows :-

The petitioner's parents purchased the property through two sale deeds in the year of 1994 and 1997, thereby they have become absolute owner of the property in Survey Nos. 153/1B and 153/1C to an extent of



Crl.O.P.No.9346 of 2022

48 ½ cents and the said sale deeds executed through power of attorney one E.Sukumar on behalf of original owner, who is 2nd respondent/defacto complainant herein. After the said purchase, his parents have enjoyed the property and subsequently, they have executed a Gift Settlement deed in his favour as he is their only son in the year of 2021. Based on that, the petitioner became absolute owner of property. However, all of a sudden, the 2nd respondent/defacto complainant, who is original owner gave a complaint stating that he and his family members have not given any power of attorney to the said E.Sukumar, thereby he is disputing the registered power of attorney dated 16.05.1994. Accordingly, the F.I.R. in Crime No. 01 of 2022 before the 1st respondent police and now the petitioner filed this petition praying to quash the F.I.R.

5. Admittedly, the petitioner's parents purchased the property in the year of 1994 and 1997 through a registered power of attorney dated 16.05.1994 stands in the name of one E.Sukumar, who is arrayed as A1, said to be given by 2nd respondent/defacto complainant and his family



Crl.O.P.No.9346 of 2022

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members. But, the 2nd respondent/defacto complainant has stated that he has not given the said power of attorney and it is a fabricated document. However, in the year of 1994 and 1997, there is two sale deeds executed in favour of petitioner's parents and now parents have executed a Gift settlement deed in favour of petitioner. Based on that, he enjoyed the property, except that, he has not fabricated any of documents as claimed by the 2nd respondent/defacto complainant along with alleged power of attorney holder/A1. So, the entire facts clearly reveal that based on the Gift Settlement Deed executed by his parents in the year of 2021, he became owner of the property and before that, two sale deeds executed in the year of 1994 and 1997 stands in the name of petitioner's parents. If at all, any malpractice made by A1 by executing power of attorney, the same can be investigated by the prosecution along with the purchases made in the year of 1994 and 1997. However, so far as this petitioner is concerned, the Gift Settlement Deed came into force in the year of 2021, but there is no prima facie materials that he was involved in fabrication of documents as per submissions made by the prosecution. Therefore, this court is inclined to quash the proceedings initiated in F.I.R. in Crime



Crl.O.P.No.9346 of 2022

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No.01 of 2022 against the petitioner, but he shall not make any encumbrance over the property till the filing of final report. Furthermore, a civil suit is also filed by the petitioner, which is pending before the District Court, Salem in O.S.No. 449 of 2021. Liberty is also granted to the petitioner to work out his remedy as per manner known to law and till then, the petitioner is directed not to make any encumbrance over the property. With regard to other accused, the prosecution submitted that they would conduct enquiry. Accordingly, this Criminal Original Petition is allowed. Consequently, connected Criminal Miscellaneous Petition is closed.

16.02.2024

Index: Yes/No
Internet: Yes/No
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To

1. The Sub-Inspector of Police,
CCB, Salem City.
2. The Public Prosecutor,
High Court, Madras.



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Crl.O.P.No.9346 of 2022

T.V.THAMILSELVI, J.

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CRL.O.P.No.9346 of 2022

16.02.2024