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Crl.O.P.(MD)No.6376 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.12.2024

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THE HONOURABLE MR.JUSTICE P.VELMURUGAN

Crl.O.P.(MD)No.6376 of 2022

and

Crl.M.P.(MD) Nos.4424 and 4425 of 2022

Abdul Wahab

... Petitioner

Vs.

1. The Inspector of Police,
CCB Crime Branch,
Tirunelveli District,
Crime No.01 of 2012

2. Anarkali

... Respondents

Prayer: Criminal Original Petition is filed under Section 482 Cr.P.C./528 BNSS Act, to call for the records pertaining to the impugned order in C.C.No.88 of 2022 on the file of the Special Court for Land Grabbing Cases, Tirunelveli and quash the same as far as the petitioner is concerned.

For Petitioner : No appearance

For Respondents : Mr.S.Vinoth Kumar
Government Advocate for R1

R2 – Not ready in notice



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ORDER

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2. Heard the learned Government Advocate (Crl.Side) for the first respondent.

3. There is no representation for the petitioner and the second respondent/*de-facto* complainant. Even though sufficient opportunity was given to the petitioner to serve notice to the second respondent/*de-facto* complainant, no notice was served on the second respondent.

4. The case of the prosecution is that one Mohamed Ali is absolute owner of the properties in Nedunkulam Village in S.Nos.586/1, 583/1 and 586/1B to an extent of 4 acres 77 cents, 2 acres 54 cents and 3 acres 81 cents. The *defacto* complainant/Anarkali, the first accused/Beemajohn and P.W.2- Gouthernisha are the daughters of said Mohamed Ali. The second accused/Saiyathuali Fathima is the daughter of the first accused.



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After the death of Mohamed Ali, his daughters jointly enjoying the said property. Subsequently, there was a partition suit before the Additional District Judge, Tirunelveli in O.S.No.07 of 2004, in which, the said property was equally divided between them. Thereafter, the first accused fraudulently obtained a release deed from her sisters. Upon came to know about the said fact, the *de-facto* complainant filed a private complaint against the first accused in Cr.M.P.No.6062/2010 on the file of the Judicial Magistrate Court No.I, Tirunelveli and a case was registered in Crime No.5 of 2011 on the file of the CCB, Tirunelveli. Thereafter, settlement was entered between the parties on 21.06.2011 and the *de-facto* complainant's share was settled in her favour and consequently, the said complaint was closed. Subsequently, the *de-facto* complainant, came to know that the first accused also made a settlement deed in favour of her daughter/second accused. Based on the said settlement deed, the second accused on 16.06.2011 has made a sale deed in favour of the petitioner/third accused.

5. The main allegation against of the *de-facto* complainant is that even before the settlement deed executed in favour of the *de-facto*



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complainant and her sister, the first accused settled the property in favour of the second accused and subsequently to the petitioner/third accused.

Hence the *de-facto* complainant made a private complaint before the learned Judicial Magistrate No.I, Tirunelveli, and a case was registered in Crime No.01 of 2012 dated 02.01.2022 on the file of the CCB, Tirunelveli and the same has been charge-sheeted as C.C.No.88 of 2022 on the file of the Special Court for Land Grabbing Cases, Tirunelveli.

6. Learned counsel for the petitioner submitted that the petitioner has been arrayed as A3 in C.C.No.88 of 2022 on the file of the Special Court for Land Grabbing Cases, Tirunelveli. The petitioner is the *bonafide* purchaser and he is no way connected with the alleged property dispute between the sisters i.e., first accused, P.W.2 and the *de-facto* complainant. The entire case of the *de-facto* complainant is civil in nature and all accused persons are family members of the *de-facto* complainant, except the petitioner herein. The petitioner one who is the third party to the transaction and only *bonafide* purchaser of the property from the second accused. Hence the petitioner filed the present petition to quash the charge-sheet in C.C.No.88 of 2022.



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7. On a perusal of the records and statement of witnesses recorded under Section 161(3) Cr.P.C, this Court finds that *prima facie* there are allegations made against the petitioner/A3 herein and there is also a specific over act attributed against the petitioner and it is a matter for trial. Therefore, this Court is of the view that the grounds raised by the petitioner is not sufficient to quash the proceedings against him. Hence, this Court is not inclined to entertain this petition by invoking Section 528 BNSS Act, 2023. However, the petitioner is at liberty to take all his defences before the trial Court in C.C.No.88 of 2022.

8. Accordingly, this Criminal Original Petition is dismissed as devoid of merits. Consequently, connected miscellaneous petitions are closed.

9. The trial Court is directed to expedite the trial in C.C.No.88 of 2022 and dispose of the case on merits and in accordance with law within a period of three months from the date of receipt of a copy of this order and file a Compliance Report before this Court. It is made clear that no extension of time will be granted to complete the proceedings, if any



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extension of time sought by the Trial Court the same will be viewed seriously.

06.12.2024

Index : Yes/No
Neutral Citation Case : Yes/No
Speaking Order : Yes/No
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To

1. The Special Court for Land Grabbing Cases,
Tirunelveli.
2. The Inspector of Police,
CCB Crime Branch,
Tirunelveli District.
3. The Public Prosecutor,
High Court, Madras.



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