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Crl.O.P.No.15996 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.15996 of 2022

and

Crl.M.P.No.9022 of 2022

1.Sundaral
2.Subbaiyan

... Petitioners

Versus

Parvathiammal

... Respondent

PRAYER: Criminal Original Petition filed under Section 482 of the Criminal Procedure Code, praying to call for the records in C.C.No.2 of 2021, pending on the file of the Judicial Magistrate Court No.II, Udumalpet and quash the same.

For Petitioner : Mr.A.E.Ravichandran

For Respondent : Mr.S.Muthukrishnan

ORDER

This petition has been filed to quash the proceedings in C.C.No.2 of 2021, pending on the file of the Judicial Magistrate Court No.II, Udumalpet as against the petitioner, having been taken cognizance for the offences under Sections 420 and 465 of IPC.



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2. The case of the prosecution is that one late Chellamuthu is the son of the complainant / respondent and the husband of the 1st petitioner herein. The 2nd petitioner is the brother of the 1st petitioner. The said Chellamuthu died intestate on 17.08.2000 leaving behind him, his wife, the 1st petitioner, his son Prthiban and his mother, the complainant herein. The said Chellamuthu was a retired defence personnel and the 1st petitioner was working as Tamil Pandit Teacher in Negamam Boys School till March 2009. The said Chellamuthu purchased certain properties in Vagathozhuvu village, Udumalpet taluk and the 1st petitioner has purchased 2.98 acres of land in SF.No.33/3 in Veedhampatti Village, independently from her income. After the death of Chellamuthu on 17.08.2000, the 1st petitioner obtained legal heir certificate dated 26.03.2001 showing herself and her minor son Parthiban. Thereafter, she settled a portion of her self-earned property measuring 2.98 acres in SF.No.33/3 in favour of her minor son Parthiban, by settlement deed dated 29.09.2010. Thereafter, the said Parthiban also died interstate on 22.04.2014, leaving behind the 1st petitioner mother as his legal heir. Thereafter, the 1st petitioner settled her self earned property and another property inherited from her husband, in favour of her brother, the 2nd petitioner herein, by settlement deed dated 09.09.2015. Since, the two properties were settled by the 1st petitioner to her brother, mis-understanding



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arose between the 1st petitioner and her mother-in-law, who is the respondent herein, at the instigation of her brother-in-law Mr.Krishnasamy, a retired Sub-Inspector of Police.

3. The learned counsel for the petitioners submitted that after the death of Chellamuthu, the 1st petitioner obtained a false legal heir certificate thereby denied the lawful share of the defacto complainant, who is the mother of the deceased, who would inherent as a legal heir. Further he submitted that the 1st petitioner managed to obtain legal heir certificate in order to settle the property in favour of A1. The 3rd and 4th accused colluded with A1 and A2, who were the witnesses to the settlement deed. Therefore, he gave a private complaint for the offences under Sections 420 and 465 of IPC and the case has been taken on file in C.C.No.2 of 2021 on the file of the Judicial Magistrate Court II, Udumalpet. and summons were also issued. Now, they approached the Court, but there is no representation on the side of the defacto complainant. Admittedly, the 1st petitioner is the daughter in law of the defacto complainant as per the complaint the defacto complainant / Parvathiammal, who is aged about 97 years, after the death of her son / Chellamuthu, A1 managed to get legal heir certificate excluding her, thereafter she made encumbrances over the properties wherein she is also



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entitled to her share as a legal heir of her deceased son. Admittedly the 1st petitioner is the Govt. School teacher and she also earned separate income out of which she purchased the property and absolute owner she enjoyed the same and now at the instigation of brother of Chellamuthu, the defacto complainant's mother-in-law gave a false complaint with an intention to harass her. It is true that the legal heir certificate stands in the name of A1 and minor son Parthiban. As on date her son Parthiban died and she also retired from her service but, during life time of Chellamuthu, he purchased certain property and the same was bequeathed through a Will to A1. Therefore, the said Will was executed in her favour and the same is subject to proof, relevancy and admissibility. The defacto complainant filed a Civil Suit in O.S.No.331 of 2018 and the same is pending before the Principal District Court, Tiruppur.

4. If at all, the petitioners are having any right, they are entitled to work out the remedy before the Civil suit and the Civil dispute is given a criminal colour and it is an abuse of process of law. Therefore, the proceedings against the petitioners in C.C.No.2 of 2021 on the file of the Judicial Magistrate Court No.II, Udumalpet is ordered to be quashed.



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WEB COPY 5. Accordingly, this Criminal Original Petition is allowed.

Consequently, connected Miscellaneous petition is closed.

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Index : Yes/No

Speaking/Non Speaking order

Neutral Citation: Yes/No

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T.V.THAMILSELVI, J.

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