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CrI.O.P.No.19680 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.08.2024

CORAM

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

CrI.O.P.No.19680 of 2024
& CrI.M.P.No.11510 of 2024

Rajendran.

... Petitioner/A-3

/versus/

1.The State Rep.by
Inspector of Police,
DCB Police Station,
Nilgiris District.

... 1st Respondent/Complainant

2. Rajkumar.

... 2nd Respondent/Defacto Complainant

Prayer: Criminal Original Petition is filed under Section 482 of Cr.P.C and Section 528 of B.N.S.S Act 2023, to call for the records pertaining to the impugned C.C.No.47 of 2023 on the file of the Learned Judicial Magistrate, Kothagiri dated 21.08.2023 and to quash the same.

For Petitioner : Mr.P.Vijendran

For R1 : Mr.S.Udaya Kumar,
Government Advocate (CrI.Side)



CrI.O.P.No.19680 of 2024

ORDER

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This Criminal Original Petition is filed to quash the final report on the complaint alleging that the petitioner herein was working as an Assistant at Sub-Registrar Office, Kothagiri and he has no nexuses with the other two accused persons who really had business dispute with the defacto complainant.

2. The short point in this case is that the transaction between the defacto complainant and the 1st accused regarding purchase of land measuring to an extent of 1.09 acres came to be registered at SRO, Kothagiri on 04.07.2018. Since, the value shown in the document was found to be undervalued, the document was kept pending and the matter was referred to DRO, Ooty. In the adjudication, the DRO has directed the defacto complainant to pay a sum of Rs.75,852/- being the deficit stamp duty and penalty. The said amount was paid. The 1st accused brought the receipt for the payment of deficit stamp duty and received the original document from the petitioner. Contending that only on production of the receipt for payment of deficit stamp duty, this petitioner being Assistant in the SRO, Kothagiri has handed over the original document otherwise there is no other incriminating circumstances to prosecute this petitioner for the offence under Section 420 of I.P.C.



CrI.O.P.No.19680 of 2024

3. The Learned Counsel for the petitioner submits that the ingredient of cheating i.e., intention to deceive a person from the inception is totally absent in this case. Therefore, a public servant cannot be prosecuted for offence under Section 420 of I.P.C., for handing over the original document after registration and on payment of deficit stamp duty.

4. The Learned Government Advocate (CrI.Side) for the respondent submits that it is not by inadvertence, the petitioner has handed over the original document to A1 who is not authorised to receive the document and not purchaser of the property but he had done that in connivance with the accused persons. Since, the investigation reveals that to defeat the interest of the defacto complainant, the original document been handed over to A1.

6. Regarding delay, the Learned Government Advocate (CrI.Side) submits that the offence of cheating brought to the notice by the defacto complainant after instituting a civil suit for other remedy. Since, commission of cognizance offence been clearly made in the course of investigation, the petitioner been charged.



CrI.O.P.No.19680 of 2024

7. This Court, on perusing the record finds that the statement of witnesses relied by the prosecution discloses the intention of the petitioner to handover the original document to persons who is not authorized to receive it and therefore, to find out whether it was done with a deceptive intention, it is a matter for trial.

8. Hence, this Criminal Original Petition is disposed of. It is left open to the petitioner herein to canvas the points agitated in the quash petition before the trial Court at the appropriate stage. The petitioner herein being a public servant, the trial Court shall take note of the fact and complete the trial as expeditiously as possible. Consequently, connected Miscellaneous Petition is closed.

16.08.2024

Index : Yes/No

Neutral Citation : Yes/No

bsm

To,

1. The Learned Judicial Magistrate, Kothagiri.
2. The Inspector of Police, DCB Police Station, Nilgiris District.
3. The Public Prosecutor, High Court of Madras, Chennai.



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CrI.O.P.No.19680 of 2024

Dr.G.JAYACHANDRAN,J.
bsm

CrI.O.P.No.19680 of 2024

16.08.2024