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CrI.O.P.No.27381 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.11.2024

CORAM :

THE HONOURABLE MR. JUSTICE P.VELMURUGAN

CrI.O.P.No.27381 of 2024

Kannika

... Petitioner

Vs.

1. State represented by
The Inspector of Police,
City Crime Branch (CCB),
Coimbatore City
(Crime No.04/2022)

2. K.Devasenapathy

...Respondents

Prayer: Criminal Original Petition filed under Section 528 BNSS, to call for the records in C.C.No.2993 of 2022 on the file of the learned Judicial Magistrate No.VII, Coimbatore and quash proceedings.

For Petitioner : Ms.S.Abhinaya Shree for
M/s.A.Parthasarathy and Associates.

For Respondents : Mr.S.Sugendran,
Addl. Public Prosecutor for R1

Mr.N.Manokaran for Mr.N.Ponraj for R2



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ORDER

This petition has been filed seeking to quash the proceedings in C.C.No.2993 of 2022 on the file of the learned Judicial Magistrate No.VII, Coimbatore.

2 Learned counsel for the petitioner would submit that the petitioner was shown as A2 in C.C.No.2993 of 2022 on the file of the learned Judicial Magistrate No.VII, Coimbatore. The second respondent lodged complaint against the petitioner and two others stating that in order to redeem the mortgaged property of the first accused, he received a sum of Rs.1,96,00,000/- through one M.C.Radhakrishnan from the second respondent by way of oral agreement to execute the sale deed in favour of the second respondent and subsequently the first accused neither repaid the money nor executed any sale deed in favour of the second respondent.

2.1 The learned counsel for the petitioner further submitted that the petitioner has not received any money from the second respondent and the second respondent in collusion with the said Radhakrishnan had created bogus



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documents and made complaint against the petitioner. The petitioner also filed a civil suit against the second respondent for permanent injunction, which is pending before the Civil Court. Therefore it is clear that the dispute pending between the petitioner and the second respondent is purely civil in nature, for which the second respondent has given a criminal color and filed this case. Hence the case in C.C.No.2993 of 2022 is liable to be quashed.

3 Learned counsel for the second respondent/defacto complainant would submit that the first accused approached the second respondent and received a sum of Rs.1,96,00,000/- stating that after redeeming the mortgaged property of the first accused, he will execute sale agreement in favour of the second respondent. But the first accused did not keep up his words and executed settlement deed in favour of his wife, who is the petitioner herein, who in turn executed sale agreement in faovur of the third accused and there by cheated the second respondent. Therefore the second respondent filed complaint against the petitioner and her husband and one another. The petitioner, taking advantage of this criminal original petition pending before this Court, is not co-operating for trial.



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4 The learned Additional Public Prosecutor would submit that in this case trial commenced and P.W.1 was examined in chief on 09.08.2024 itself.

5 Heard the learned counsel on either side and perused the materials available on record.

6 Admittedly based on the complaint given by the second respondent, a case was registered against the petitioner and two others and the petitioner is A2. After investigation charge was laid, which was taken on file in C.C.No.2993 of 2022 by the learned Judicial Magistrate No.VII, Coimbatore. Now trial commenced and P.W.1 was examined in chief on 09.08.2024 itself. All the grounds taken by the petitioner is a matter for trial. Considering the facts and circumstances of the case and also the fact that trial commenced, this Court is not inclined to quash the case.

7 Accordingly this criminal original petition stands dismissed. However the petitioner is at liberty to take all the grounds as defence before the trial Court. Further the learned Judicial magistrate No.VII, Coimbatore, is



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directed to dispose of the case in C.C.No.2993 of 2022 within a period of four months from the date of receipt of a copy of this order. Both the parties are directed to extend their fullest co-operation for disposal of the case within the time stipulated by this Court as above.

19.11.2024

Speaking Order/Non Speaking Order
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To

1. The Judicial Magistrate No.VII, Coimbatore.
2. The Inspector of Police, City Crime Branch (CCB), Coimbatore City.
3. The Public Prosecutor, Madras High Court.



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P.VELMURUGAN, J.,

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