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Crl.R.C.No.2056 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.12.2024

CORAM

THE HONOURABLE MR.JUSTICE SUNDER MOHAN

Crl.R.C.No.2056 of 2023
and Crl.M.P.No.18939 of 2023

Elangalli

... Petitioner

Vs.

The State by
The Inspector of Police,
Central Crime Branch,
(Land Grabbing Cell)
Vepery, Chennai – 600 007.
[Crime No.330 of 2019]

... Respondent

PRAYER: Criminal Revision Case filed under Sections 397 & 401 Cr.P.C., to call for the records pending on the file of the Judicial Magistrate No.I, Poonamallee in C.C.No.208 of 2023 and quash the said Criminal proceeding pending on the file of the Judicial Magistrate No.I, Poonamallee in C.C.No.208 of 2023.

For Petitioner : Mr.V.Parthiban

For Respondent : Mr.S.Udaya Kumar
Government Advocate (Crl. Side)



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ORDER

The revision challenges the dismissal of the discharge petition filed by the petitioner, who is facing trial in C.C.No.208 of 2023 for the alleged offence under Sections 420, 465, 467, 468, 471 r/w. 34 IPC.

2.The case of the prosecution is that the first accused claiming to be the sole legal heir of her mother had forged a legal heirship certificate in which she was shown as the sole legal heir of her mother and settled the property pertaining to her mother to A2, who is her daughter; that A3/petitioner and A4 signed as witnesses, who is the husband of A1. The petitioner sought for discharge before the Trial Court and the Trial Court dismissed the same on the ground that the question as to whether the petitioner is involved in the offence of forgery has to be adjudicated only in the trial and therefore, the petitioner cannot be discharged.

3.The learned counsel for the petitioner would submit that the first accused is entitled to half share of the property since her mother had cancelled a Will executed in favour of the mother of the defacto



complainant; that the document executed by the first accused in favour of her daughter/A2 is only pursuant to a false claim of title; that the petitioner in any case has no role in the alleged forgery of the legal heirship certificate; that he is only an attestor and the attestor is not expected to know the contents of the document and cannot be treated as party to the document. He would further submit that the quash petition filed by A2 was allowed by this Court in Crl.O.P.No.23110 of 2021 dated 22.08.2023 on the ground that A2 was the beneficiary under the Settlement Deed and there is no evidence to show that she was party to the forgery and that A2 had cancelled the Settlement Deed subsequently. The learned counsel therefore would submit that what applies to A2 would apply to A3/petitioner in the absence of any evidence that he had forged the legal heirship certificate which was used by A1.

4.The learned Government Advocate (Crl. Side), on instructions, would submit that pursuant to the dismissal of the discharge petition, four witnesses were already examined on the side of the prosecution and four more witnesses have to be examined and the question as to whether forgery



has been committed by the petitioner in collusion with A1 has to be adjudicated only by the Trial Court and at this stage, the petitioner cannot be discharged.

5.This Court had considered the rival submissions.

6.The points raised by the petitioner is that A2 is the beneficiary of the alleged forged document, namely, legal heirship certificate and the only overt act attributed to the petitioner is that he has signed as witness in the Settlement Deed executed in favour of A2; that the said Settlement Deed was cancelled by A2 which was recorded by this Court in the order dated 22.08.2023 in Crl.O.P.No.23110 of 2021 wherein this Court had quashed the proceedings against A2 on the ground that she is the beneficiary under the Settlement Deed and that there was no evidence to show that she had forged the legal heirship certificate.

7.There is force in the submission made by the learned counsel for the petitioner that what applies to A2 would also apply to A3 who has signed as



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witness in the Settlement Deed. However, this Court is not inclined to entertain this revision at this stage. It is needless to say that if the prosecution fails to establish the petitioner's involvement in the offence of forgery said to have been committed by A1, then no offence would be made out. Hence the learned Magistrate may consider the evidence in the light of the rival contentions and pass appropriate judgment.

8. Accordingly, the Criminal Revision Case stands dismissed. Consequently, connected miscellaneous petition is closed.

12.12.2024

Index: Yes/No
Speaking Order/Non-Speaking Order
Neutral Citation: Yes/No
cse



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SUNDER MOHAN, J.

cse

To

- 1.The Inspector of Police,
Central Crime Branch,
(Land Grabbing Cell)
Vepery, Chennai – 600 007.
- 2.The Judicial Magistrate No.I,
Poonamallee.
- 3.The Public Prosecutor,
High Court, Madras.

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