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Crl.R.C.No.2163 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.02.2024

CORAM

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

Crl.R.C.No.2163 of 2023
and Crl.M.P.No.19565 of 2023

Karuppan

... Petitioner

Vs.

State rep. By
The Inspector of Police,
District Crime Branch,
Villupuram District.
[Crime No.19/2016]

... Respondent

Prayer: Criminal Revision Petition filed under Sections 397 r/w. 401 of Criminal Procedure Code, to call for the records connected with the order dated 25.10.2023 in Crl.M.P.No.365 of 2021 in C.C.No.47 of 2019 on the file of the learned Judicial Magistrate No.I, Kallakurichi in Crime No.19 of 2016 on the file of the respondent and set aside the same as illegal.

For Petitioner : Mr.J.Sadam Hussain

For Respondent : Mr.C.E.Pratap
Government Advocate (Crl. Side)



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ORDER

The petitioner/A1 in C.C.No.47 of 2019 filed a discharge petition in Crl.M.P.No.365 of 2021 before the learned Judicial Magistrate No.I, Kallakurichi, seeking to discharge the petitioner from the case for the offence under Sections 468, 471, 167 and 423 IPC. The Trial Court by order dated 25.10.2023 dismissed the same. Against which, the present revision petition is filed.

2.The petitioner along with one Ganapathy, Record Draughtsman, Kallakurichi is being prosecuted. The case against the petitioner is that in S.Nos.594/17, 594/13, 594/15 and 594/16, ½ cent land in Natham Poromboke was allotted in the name of Dhanalakshmi, Natarajan and Chandhiragandhi and patta was issued in their names but the petitioner in connivance with A2 in TK.8A.248/1416 dated 21.11.2006 corrected the revenue records, fabricated the documents and created a sub-division in S.Nos.594/16 and 594/17 and caused issuance of patta in Patta Nos.531 and



534 to the petitioner and his wife Ponmalar. Hence, a case was registered against the petitioner and other accused. On conclusion of investigation, charge sheet was filed.

3.The contention of the learned counsel for the petitioner is that though 28 witnesses were listed in the charge sheet and documents annexed, none of the witnesses speak about the fact as to what happened in the year 2006. He would submit that the respondent police by a report dated 22.04.2016 now claims that the petitioner along with other accused was instrumental in tampering the revenue records and creating forged documents. He further submitted that in this case, no revenue officials, namely, Tahsildar, Surveyor, Revenue Inspector, Assistant Surveyor, Kallakurichi, Taluk Surveyor, Draughtsman during the year 2006 were examined. Further the file pertaining to TK.8A.248/1416 dated 21.11.2006 would confirm that the revenue authorities has followed the procedure and thereafter, on approval patta was issued. The petitioner has got nothing to do in the issuance of patta. The Investigating Officer though collected these documents, the same was not produced along with the charge sheet. If the



entire documents which were collected by the Investigating Officer were produced, there was no case against the petitioner. The Trial Court failed to consider the same but merely dismissed the petitioner by stating that the points raised by the petitioner are to be decided only during trial and as on date, on the basis of the materials and documents, prima facie case is made out which is not proper.

4.The learned Government Advocate (Crl. Side) on the other hand filed a counter and submitted that the Inspector of Police, Crime Branch, Villupuram took up the case for investigation, examined the witnesses, altered Sections 419, 420, 468, 471 into 167, 423, 468 & 471 of IPC and filed the charge sheet before the learned Judicial Magistrate No.I, Kallakurichi on 03.07.2018 and the same was taken on file as C.C.No.47 of 2019. Thereafter, the petitioner filed the discharge petition before the Court below in Crl.M.P.No.365 of 2021 and the same was dismissed, against which, the present Criminal Revision Case. He further submitted that as per the statements of the prosecution witnesses, the petitioner instigated A2 who is a public servant to make illegal correction in the revenue records and



to fabricate the patta in the name of one Ponmalar, wife of the petitioner and thereby manipulated the government records. Added to it, LW6-District Revenue Officer, LW7-Sub Registrar and LW8 clearly gave statement with regard to the offence made out by the petitioner and A2. Hence, prima facie case has been established by the prosecution and sufficient materials relating to prove the case are filed before the trial Court. Therefore, he prays for dismissal.

5.Considering the submissions made and on perusal of the materials, it is seen that the respondent police collected documents, enquired the revenue officials, officials of Survey Department and thereafter filed the final report. But in the final report, the Circle Inspector, Tahsildar Office, Surveyor Land Measurement Unit, Village Administrative Officer, Village Assistant from the Revenue Department and Survey Department were listed as witnesses. The petitioner's grievance is that they are serving presently but not during the year 2006. The Official witnesses speak based on the documents. If at all the petitioner is aggrieved, he can very well summon these documents if it is available with the respondent police or from the



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concerned office for the relevant year 2006 in support of his defence at the time of trial by filing appropriate petition and thereafter put questions to the witnesses.

6.With the above direction, the criminal revision petition stands disposed of. Consequently, connected miscellaneous petition is closed.

15.02.2024

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

To

1.The Inspector of Police,
District Crime Branch,
Villupuram District.

2.The Judicial Magistrate No.I,
Kallakurichi.



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M.NIRMAL KUMAR, J.

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