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CrI.O.P.No.31884 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.12.2024

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THE HONOURABLE MR.JUSTICE P.VELMURUGAN

CrI.O.P.No. 31884 of 2024

and

CrI.M.P.No.18160 of 2024

S.Shanmugam

... Petitioner

Vs.

1. The State represented by
The Sub-Inspector of Police,
Anti-Land Grabbing Special Cell,
Kanchipuram.

2. N.Chandran

... Respondents

Prayer: Criminal Original Petition is filed under Section 482 Cr.P.C./528 BNSS, 2023, to call for the records pertaining to C.C.No.204 of 2016 pending on the file of the learned Judicial Magistrate –II, Chengalpattu and consequently quash the same.

For Petitioner : No appearance

For Respondents : Mr.S.Sugendran

Additional Public Prosecutor for R1

ORDER

This Criminal Original Petition is filed to quash the charge-sheet in C.C.No.204 of 2016 pending on the file of the learned Judicial Magistrate –II, Chengalpattu.



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2. The case of the prosecution is that one Elumalai Naicker was the owner of the land comprised in S.No.367/1 situated in Unamanchery Village, Chengalpattu Taluk, Kanchipuram District, measuring an extent of 87 cents. One Karunakaran/A1, who is the legal heir of late Elumalai Naicker, had executed a Power of Attorney in favour of one Bose with regard to 80 cents of above said land. Consequently, the said Bose had sold the said property to one Kuppusamy and the second respondent herein/*de-facto* complainant vide sale deed dated 08.01.1997. While that being so, due to escalation in the land price, A1 had conspired with A2 to A4 and created encumbrance on the land and also executed General Power Attorney in favour of the petitioner herein/A5. It is alleged that A5 with prior knowledge of earlier Power of Attorney had wantonly agreed to act as Power of Attorney of A1 to A4. Hence, the second respondent/*de-facto* complainant lodged a complaint against the petitioner herein and others and the first respondent/Police registered a case in Crime No.31 of 2013. On completion of investigation, the first respondent/Police filed a charge-sheet before the learned Judicial Magistrate –II, Chengalpattu against the petitioner and others for the offences under Sections 120(b), 420, 465 and 468 IPC. Now, the



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petitioner who has been arrayed as A5 has filed the present petition seeking to quash the charge-sheet.

3. According to the petitioner, based on the complaint given by the second respondent, the first respondent/Police had registered the case against the petitioner without proper enquiry and he has stated that in the FIR no where it is mentioned that the petitioner had knowledge about the earlier Power of Attorney in respect of the same property. The *de-facto* complainant is attempting to convert a civil dispute into criminal dispute and in order to settle scores with A1 to A4 had preferred a false complaint. He further stated that the case on hand is a clear abuse of process of law. The first respondent, who was hand in glove with the second respondent had foisted a false case against the petitioner and he is no way connected with the alleged offence. Therefore, he prays to quash the charge-sheet.

4. Learned Additional Public Prosecutor appearing for the first respondent/Police submitted that the petitioner, who is arrayed as A5 is facing trial in C.C.No.204 of 2016. Already trial has commenced, out of



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11 witnesses 7 witnesses were examined and remaining four witnesses have to be examined. At this juncture, the petitioner has filed the present petition to quash the charge-sheet.

5. There is no representation for the petitioner.

6. Heard the learned Additional Public Prosecutor appearing for the first respondent and perused the materials available on record.

7. On a perusal of the materials and also evidence of prosecution witnesses and also statement recorded from the other witnesses under Section 161(3) Cr.P.C., this Court finds that *prima facie* there are materials against the petitioner to proceed the case further and it is a matter for trial. Whether the petitioner is involved in the alleged offence or not can be decided only after trial and hence, this Court is not inclined to entertain this petition. However, the petitioner is at liberty to take all his defences before the trial Court during the trial in C.C.No.204 of 2016.



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8. Accordingly, this Criminal Original Petition is dismissed.

Consequently, connected miscellaneous petitions is closed.

19.12.2024

Index : Yes/No

Neutral Citation Case : Yes/No

Speaking Order : Yes/No

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To

1.The Judicial Magistrate-II,

Chengalpattu.

2. The Sub-Inspector of Police,
Anti-Land Grabbing Special Cell,
Kanchipuram.

3.The Public Prosecutor,
High Court, Madras.



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P.VELMURUGAN, J

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