



Crl.O.P.(MD)No.182 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 29.01.2024

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THE HON'BLE MR.JUSTICE M.DHANDAPANI

Crl.O.P.(MD)No.182 of 2022

and

Crl.M.P.(MD)Nos.123 & 124 of 2022

Balamurugan

... Petitioner

Vs.

1.State Represented by
The Inspector of Police,
District Crime Branch,
Theni, Theni District.
(Crime No.05 of 2020)

2.V.Parthiban

... Respondents

PRAYER : Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to call for the records pertaining to the case in C.C.No.23 of 2021 on the file of the Judicial Magistrate, Theni and quash the same.

For Petitioner : Mr.S.Ramasamy

For R1 : Mr.SS.Madhavan,
Government Advocate (Crl. Side)



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For R2 : No Appearance

ORDER

This Criminal Original Petition has been filed to quash the proceedings in C.C.No.23 of 2021 on the file of the Judicial Magistrate, Theni.

2.The case of the prosecution is that the second respondent is a practicing Advocate in Madras High Court. A1 to A5 are residents of Appipatti village, Theni District and the petitioner herein is arrayed as A1 and he is employed as Sub-Registrar. The second respondent claimed that he owned ancestral property in S.No.62/4A to an extent of 2 acres 24 cents. Originally the said land was owned by one Mohanraj. After his demise, his wife and son were jointly executed a power of attorney in favour of one Loganthurai and the same was registered before the Sub-Registrar, Chinnamanur in SRO.No.344/2007. Based on the above said deed, the said Loganthurai executed sale deed in favour of his father-in-law on 16.06.2008 and the same was also registered before the Sub-



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Registrar, Chinnamanur in SRO.No.2145/2008 and patta was also transferred. Thereafter, he executed a settlement deed in favour of him on 14.12.2015 in Doc.No.5279 of 2015 and the same was registered before the Sub-Registrar, Chinnamanur. It is alleged that A1 to A5 hatched conspiracy, A1 fabricated the patta as if the patta stands in the name of his husband and put forged seal of the Government. Based on the said patta, A1 executed forged settlement deed in favour of his son on 10.08.2018 and registered before the Sub-Registrar, Chinnamanur in SRO.No.3695/2018. The petitioner herein was working as Sub Registrar, Chinnamanur. Without getting encumbrance and legal heir certificate, he registered the above settlement deed in Doc.No.3695 of 2008. Based on the complaint, the first respondent police registered a case and after completion of investigation, he filed charge sheet, which was taken on file in C.C.No.23 of 2021 by the learned Judicial Magistrate, Theni, Theni District. Challenging the same, this petition came to be filed.

3.The learned counsel appearing for the petitioner would submit that the petitioner, being a Sub-Registrar, as per Section 55 of the Registration Rules, it is not his duty to enquire into the validity of the



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document, which was brought to him for registration. He would further submit that there is no overt act as against the petitioner herein and all the allegations are bald in nature. Therefore, he would pray to quash the impugned proceedings.

4.The learned Government Advocate(Crl.side) appearing for the first respondent police would submit that the first respondent has conducted a fair investigation and after examining the necessary witnesses and collecting all materials, he has filed the final report, which has been taken cognizance of by the court below. He would further submit that there are materials available to proceed with the case as against the petitioner herein and at the threshold, the criminal proceedings cannot be quashed and hence, he would pray to dismiss the present petition.

5.Heard the learned counsel appearing for the petitioner and the learned Government Advocate(Crl.side) appearing for the first respondent.



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6. Time and again, this Court as well as the Supreme Court has cautioned the courts about the necessary precautions to be taken while quashing the charge sheet at the initial stage. Useful reference in this regard can be had to the decision of the Hon'ble Apex Court in ***State of Haryana – Vs - Bhajan Lal (1992 SCC (Crl.) 426)***.

7. In the above circumstances, the trial court has rightly taken the case on file and this Court is of the considered view that no prejudice would be caused to the petitioner if he is subjected to due trial as sufficient opportunity would be given to the petitioner to put forth his defence. The petitioner cannot be let by quashing the charge framed against him as that would completely undermine the alleged acts, which is the subject matter of criminal trial pending against him.

8. For the reasons aforesaid, this Court finds no ground or scope to quash C.C.No.23 of 2021, pending on the file of the learned Judicial Magistrate, Theni. Accordingly, this petition, being devoid of merits, is dismissed. Consequently, connected miscellaneous petitions are also closed.



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9.Learned counsel appearing for the petitioner would submit that this Court may consider dispensing with the personal appearance of the petitioner before the court below. Taking into consideration the request as made by the learned counsel for the petitioner, the appearance of the petitioner before the trial court is dispensed with except for his appearance for the purpose of receiving the copy of the proceedings u/s 207 Cr.P.C., framing of charges, questioning under Section 313 Cr.P.C. and on the day on which judgment is to be pronounced. However, if for any particular reason, the presence of the petitioner is necessary, the trial court, at its wisdom, shall direct his appearance on those days.

29.01.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
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To

- 1.The Judicial Magistrate,
Theni.
- 2.The Inspector of Police,
District Crime Branch,
Theni, Theni District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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M.DHANDAPANI,J.

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