



Crl.O.P.(MD) No.172 of 2023

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 15.07.2024

CORAM:

THE HONOURABLE MR.JUSTICE K.RAJASEKAR

Crl.O.P.(MD) No.172 of 2023

and

Crl.M.P.(MD) Nos.146 & 147 of 2023

Kumar @ Rajkumar

... Petitioner

-VS-

1.The State
rep.by the Inspector of Police
Land Grabbing Preventing Cell
Madurai District
(In Crime No.47 of 2011)

2.P.Murugan

... Respondents

PRAYER: Petition filed under Section 482 of the Code of Criminal Procedure, 1973 to call for the records pertaining to the charge sheet filed in C.C.No.26 of 2014, on the file of the learned Special Judicial Magistrate, Court for Exclusive Trial of land Grabbing Cases, Madurai and quash the same as illegal.



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For Petitioner : Mr.R.Karunanidhi

For Respondents : Ms.M.Aasha
Government Advocate (Criminal Side) for R1
No appearance for R2

ORDER

This criminal original petition is filed by the petitioner / A7 seeking to quash the proceedings initiated against him, in C.C.No.26 of 2014, pending on the file of learned Special Judicial Magistrate, Special Court for Land Grabbing Cases, Madurai.

2. It is the case of the petitioner that he has been arrayed as A7 on the basis of the complaint lodged by the second respondent / *de facto* complainant. According to the *de facto* complainant, he is having 1.84 Acres of land in Survey Nos.120/2B, 122/9A, 122/9B, 40/4A, 64/5A of Thirukkanai Village. In the year 2002, A1 had handed over some documents belonging to him to the *de facto* complainant to keep the same in his custody. Subsequently, on 07.08.2002, A1 to A3 and A5 entered into the house of the *de facto* complainant and taken away the documents belonging to A1 along with a sale deed belonging to the *de facto* complainant. Subsequently, when



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the *de facto* complainant demanded the accused to return back the document belongs to him, they refused to return back the document and informed him that after verification of all documents, they will return back the same, if available. However, by creating false identity cards and fabricating *de facto* complainant's driving licence, the accused had registered a power of attorney on 24.09.2007 in favour of A5 as if it was executed by the *de facto* complainant. Subsequently, by using the said power of attorney, a sale deed for the land belongs to the *de facto* complainant, was registered in the name of A6 on 04.10.2007. The petitioner / A7 is the brother of A6. After coming to know about registration of the sale deed, the *de facto* complainant went to the house of A1 and questioned him regarding falsification of records, for which A1 along with A2, A5 and A7 had threatened him with dire consequence and also told him that the issue was already settled and he shall not raise the issue once again. Thereafter, the *de facto* complainant lodged a complaint before the respondent – Police alleging conspiracy hatched between the accused, fabrication of documents and registration of sale deed in favour of A6. After investigation, the respondent – Police filed the final report against the accused for the offence under Sections 120(B), 419, 452, 468, 471, 387, 420 and 506(ii) I.P.C.



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3. Learned counsel for the petitioner would submit that there is no specific allegation against the petitioner (A7) herein and without any specific allegation, the petitioner is made to undergo the ordeal of trial and since it is only an abuse of process of law, he prays for quashing the final report filed against the petitioner (A7)

4. Learned Government Advocate (Criminal Side) appearing for the respondent – Police, on instructions, would submit that the allegation levelled against the petitioner herein is that he has joined with other accused, hatched a conspiracy and threatened the *de facto* complainant with dire consequence, when he had questioned the accused about falsification of records and, registration of document in favour of A6 and hence, prays for dismissal of the criminal original petition.

5. A perusal of the statement of the *de facto* complainant, shows that immediately after coming to know about registration of sale deed, he went to A1's house, where the petitioner (A7), who was present, along with the other accused, criminally intimidated the *de facto* complainant. Apart from that, there is an allegation of conspiracy hatched for creation of a forged power of



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attorney in favour of A5, for which it is alleged that the petitioner had played a vital role. The *de facto* complainant has also stated that his driving licence and photograph were misused and a power of attorney was executed by impersonation as if he executed the power of attorney in favour of A5. It is revealed from the investigation that A4 impersonated himself as the *de facto* complainant and executed a power of attorney in favour of A5 and based on the said power of attorney, a sale deed was executed in favour of A6, who is the brother of the petitioner (A7) herein and these facts are coupled with the allegation of conspiracy hatched between the parties. It is settled law that conspiracy has to be proved only based on the proven facts before the Court of law and it is not very difficult to be proved by adducing direct evidence. In this case, there is an allegation of conspiracy against the petitioner and there is also a specific overt act attributed against the petitioner that he has criminally intimidated the *de facto* complainant. In such circumstances, I am of the view that only in the trial, the truth or otherwise of the role played by the petitioner will come out. Therefore, I am not inclined to quash the proceedings initiated against the petitioner as he has to undergo the trial to prove his defence.



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6. Accordingly, the criminal original petition is dismissed. The concerned Trial Court is directed to dispose of C.C.No.26 of 2014 as expeditiously as possible. Consequently, connected miscellaneous petitions are closed.

15.07.2024

NCC : Yes / No

Index : Yes / No

Internet : Yes / No

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To:

- 1.The Special Judicial Magistrate,
Special Court for Land Grabbing Cases,
Madurai.
- 2.The Inspector of Police,
Land Grabbing Preventing Cell,
Madurai District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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K.RAJASEKAR, J.

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