



CrI.O.P.(MD)No.2583 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: **16.02.2024**

CORAM:

THE HONOURABLE MR.JUSTICE **M.DHANDAPANI**

CrI.O.P.(MD) No.2583 of 2022

and

CrI.M.P.(MD).No.1928 of 2022

1.Vellaithaai

2.Subban

3.Sivagnanammal

4.Subbammal

5.Muniyaraj

6.Sivasankar

... Petitioners/A2 to A7

Vs.

1.The State Rep. by its
The Inspector of Police,
Puliyankudi Police Station,
Tenkasi District.
Crime No.337 of 2015

... Respondent/Complainant

2.Krishnakumar

... 2nd Respondent/Defacto complainant

PRAYER: Criminal Original Petition is filed under Section 482 of Cr.P.C, to call for the records in C.C.No.112 of 2016 on the file of the learned Judicial Magistrate, Sivagiri, Tenkasi District, in Crime No.337 of 2015 on the file of the first respondent police and quash the same sofaras the petitioners are concerned.



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For petitioners : Mr.A.Uthayakumar
For R-1 : Mr.P.Kottaichamy
Government Advocate (Criminal Side)
For R-2 : No Appearance

ORDER

This petition has been filed seeking to quash the proceedings in C.C.No.112 of 2016 pending on the file of the learned Judicial Magistrate, Sivagiri, Tenkasi District.

2.The case of the prosecution is that the second respondent has purchased the property in S.No.281/1 to an extent of 13 ½ cents from one Shanmugavelsamy S/o. Mathisathevar on 22.02.2010 and the same was registered before the Sub Registrar Office, Puliyanankudi in Document bearing No.493/2010. The said property is an ancestral property of the said Shanmugavelsamy, who has passed away on 17.07.2012. After registration of the said property, the first petitioner and others were jointly entered into criminal a conspiracy and created a fabricated document as if the said property belonged to the first petitioner and sold it to the second petitioner and registered in Document No.1877 of 2013 before the Sub Registrar Office, Puliyanankudi on 28.06.2013, in which,



the fifth and sixth petitioners were signed as witnesses and the remaining 4 cents of property was registered in favour of the third petitioner by the first petitioner. After knowing the same, when the second respondent visited his lands, he was threatened by the petitioners with dire consequences. Therefore, the second respondent lodged a complaint before the first respondent and the same was registered in Crime No.337 of 2015 against the petitioners and thereafter, the first respondent Police conducted the investigation and on completion of investigation, the charge sheet has been filed before the learned Judicial Magistrate, Sivagiri, Tenkasi District and the learned Judicial Magistrate has taken cognizance in C.C.No.112 of 2016 for the alleged offence punishable under Sections 120(b), 147, 468, 471, 420, 294(b) and 506(i) of IPC.

3.The learned counsel appearing for the petitioners would submit that a false case has been foisted against the petitioners and there is no specific allegation made against the petitioners.

4.The learned Government Advocate (Crl. Side) would submit that there are materials available to proceed with the case as against the petitioners herein and at the threshold, the criminal proceedings cannot be quashed and the charges against the petitioners



have to be gone into only at the time of trial and hence, he prayed for dismissal of the petition.

5.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 petitioners, if they are subjected to due trial as sufficient opportunity would be given to the petitioners to put forth their defence. The petitioners cannot be let by quashing the charges framed against them as that would completely undermine the alleged act, which is the subject matter of criminal trial pending against them. Useful reference in this regard can be made to the decision of the Hon'ble Apex Court in *State of Haryana – Vs - Bhajan Lal (1992 SCC (Crl.) 426)*.

6.For the reasons aforesaid, this Court finds no ground or scope to quash C.C.No.112 of 2016, pending on the file of the learned Judicial Magistrate, Sivagiri, Tenkasi District. Accordingly, this Criminal Original Petition is dismissed. Consequently, connected miscellaneous petition is closed.

7.At this juncture, the learned counsel appearing for the petitioners would submit that this Court may consider to dispense with



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the personal appearance of the petitioners before the court below. Taking into consideration the request as made by the learned counsel for the petitioners, the appearance of the petitioners before the trial court is dispensed with except for their 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 petitioners is necessary, the trial court, at its wisdom, shall direct their appearance on those days.

16.02.2024

Index : Yes/No
Internet : Yes/No
SJI
To

- 1.The Judicial Magistrate, Sivagiri, Tenkasi District.
- 2.The Inspector of Police,
Puliyankudi Police Station,
Tenkasi District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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M.DHANDAPANI. J.

SJI

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