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Crl.O.P.(MD)No.2582 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 20.02.2024

CORAM:

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

Crl.O.P.(MD) No.2582 of 2022

and

Crl.M.P.(MD)Nos.1926 and 1927 of 2022

Masanam

... Petitioner/A5

Vs.

1.State Rep. by

The Inspector of Police,

District Crime Branch,

Dindigul District.

Crime No.29 of 2018

... 1st Respondent/Complainant

2.Kondalsamy

... 2nd Respondent/De-facto Complainant

PRAYER: Criminal Original Petition is filed under Section 482 of Cr.P.C, to call for the records pertaining to the impugned charge sheet in C.C.No.7 of 2021 on the file of the learned Special Judicial Magistrate, Special Court for Exclusive Trial of Land Grabbing Cases, Madurai and quash the same as illegal insofar as the petitioner/A5 concern.

For petitioner : Mr.P.Manikandan

For Respondents : Mr.P.Kottaichamy
Government Advocate (Crl. side) for R1

Mr.B.Jeyakumar for R2



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ORDER

This petition has been filed seeking to quash the impugned charge sheet in C.C.No.7 of 2021 on the file of the learned Special Judicial Magistrate, Special Court for Exclusive Trial of Land Grabbing Cases, Madurai, insofar as the petitioner/A5 is concerned.

2.The case of the prosecution is that A2 mortgaged the property to the defacto complainant for a sum of Rs.5,00,000/-. Subsequently, the mortgage deed was cancelled through Document No.3537 of 2015 without knowledge of the defacto complainant. Hence, the defacto complainant made a complaint before the first respondent police and the same was registered in Crime No.29 of 2018 for the offences under Sections 420, 465, 468, 471 and 120B of IPC and thereafter, the first respondent police altered the offence under Sections 420, 465, 468, 471, 120B, 418 and 419 of IPC. After completion of investigation, the respondent police filed a charge sheet before the learned Special Judicial Magistrate, Special Court for Exclusive Trial of Land Grabbing Cases, Madurai and the same was taken on file as C.C.No.7 of 2021. Challenging the same, the present petition is filed.



3.The learned counsel for the petitioner would submit that the petitioner is the document writer and he did not commit any offence as alleged by the prosecution. Even a bare perusal of the statement of P.W. 1/defacto complainant and other statements clearly reveal that the petitioner has no role to play with regard to the document executed by A1 and A2 in favour of A3 and A4 and the petitioner simply acted as a document writer and no serious allegation was made against him. Hence, implicating the petitioner to face the trial is not sustainable one. Accordingly, he prayed for allowing this petition.

4.The learned counsel for the defacto complainant would submit that though there is no specific allegation made against the petitioner, he is the master-mind for creation of the mortgage redeem receipt and no witnesses were examined to prove the same.

5.The learned Government Advocate (Crl. side) would submit that no allegation was made against the petitioner and the petitioner is simply the document writer. He would further submit that though the defacto complainant made a complaint against the petitioner as if he prepared a mortgage redeem receipt, no witnesses were examined by the first respondent police.



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6.Considering the facts and circumstances of the case, in respect of the document writer, who was implicated in the criminal case and the said issue came up for consideration before this Court and this Court held that the document writer is not a competent person to verify the genuineness of the document produced by the parties before drafting the sale deed and it is the duty of the document writer to prepare as per the request made by the parties and without any evidence linking the petitioner with the other accused and forced the petitioner to face the trial, which is not sustainable one. Hence, following the ratio laid down by this Court in ***Crl.R.C.No.20196 of 2018, dated 10.08.2021***, this Court is inclined to allow the petition.

7.Accordingly, the Criminal Original Petition is allowed. However, without influencing any of the observations made in this order, the learned Special Judicial Magistrate, Special Court for Exclusive Trial of Land Grabbing Cases, Madurai, is directed to conclude the trial in respect of the other accused and pass appropriate orders. Consequently, connected miscellaneous petitions are closed.

20.02.2024

Index : Yes/No
Internet : Yes/No
NCC: Yes/No
SJI



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To

- 1.The Special Judicial Magistrate,
Special Court for Exclusive Trial of Land Grabbing Cases, Madurai.
- 2.The Inspector of Police,
District Crime Branch,
Dindigul 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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