



Crl.O.P.(MD)Nos.3623 of 2020 and 242 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **20.11.2024**

CORAM

THE HON'BLE MR.JUSTICE N.ANAND VENKATESH

Crl.O.P.(MD) Nos.3623 of 2020 and 242 of 2021

and

Crl.M.P. (MD) Nos.1952, 1954 of 2020 and 82 of 2021

Crl.O.P. (MD) No.3623 of 2020

S.Nedumaran

... Petitioner

Vs.

1. The Inspector of Police,
Investigation Officer,
Land Grabbing Special Cell,
District Crime Branch, Madurai.

2. Puvenedran (Died)
Annalakshmi

3. Xavier Sundaram

... Respondents

PRAYER : Criminal Original Petition filed under Section 482 of Criminal Procedure Code, to call for the records pertaining to the C.C.No.203/2012 on the file of the Judicial Magistrate Court No.I and now pending before the Land Grabbing Special Court, Madurai in C.C.No.13/2014 and quash the same as illegal.



Crl.O.P.(MD)Nos.3623 of 2020 and 242 of 2021

For Petitioner : Mr.N.Ananda Kumar
For Respondents : Mr.S.Ravi
Additional Public Prosecutor
for R1

Crl.O.P. (MD) No.242 of 2021

1. T.Senthilkumar
2. S.Mayilvahanan
3. S.Kannan
4. L.Kasthuri
5. L.Ravindran
6. L.Sampath
7. L.Kalyanasundaram
8. S.Rajendran
9. S.Mahendran
10. S.Surendran
11. S.Ashokumar
12. S.Balamurugan
13. S.Senthilvel
14. V.Ganesan
15. V.Prakash



CrI.O.P.(MD)Nos.3623 of 2020 and 242 of 2021

16. V.Murali

... Petitioners

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Vs.

1. The Inspector of Police,
Land Grabbing Special Cell,
District Crime Branch, Madurai.

2. Puvenedran (Died)
Annalakshmi

3. Xavier Sundaram

... Respondents

PRAYER : Criminal Original Petition filed under Section 482 of Criminal Procedure Code, to call for the records pertaining to the C.C.No.203 of 2012 on the file of the Judicial Magistrate Court No.1 and now pending before the Land Grabbing Special Court, Madurai in C.C.No.13 of 2014 and quash the same as illegal.

For Petitioners : Mr.T.Vadivel

For Respondents : Mr.S.Ravi
Additional Public Prosecutor
for R1

COMMON ORDER

These petitions have been filed seeking to quash the proceedings pending in C.C.No.203 of 2012 on the file of the learned Judicial Magistrate No.1, Madurai.



CrI.O.P.(MD)Nos.3623 of 2020 and 242 of 2021

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2.The second and third respondents gave a complaint to the police to the effect that the accused persons created false and fabricated documents through a forged Will dated 01.01.1935 and based on the same, they created a power of attorney document and executed a sale-deed on 29.03.2011. Thus, the property belonging to the defacto complainant was grabbed by the accused persons. There are totally 22 accused persons in this case and the petitioners are A1, A5 to A11, A13 to A18 and A20 to A22.

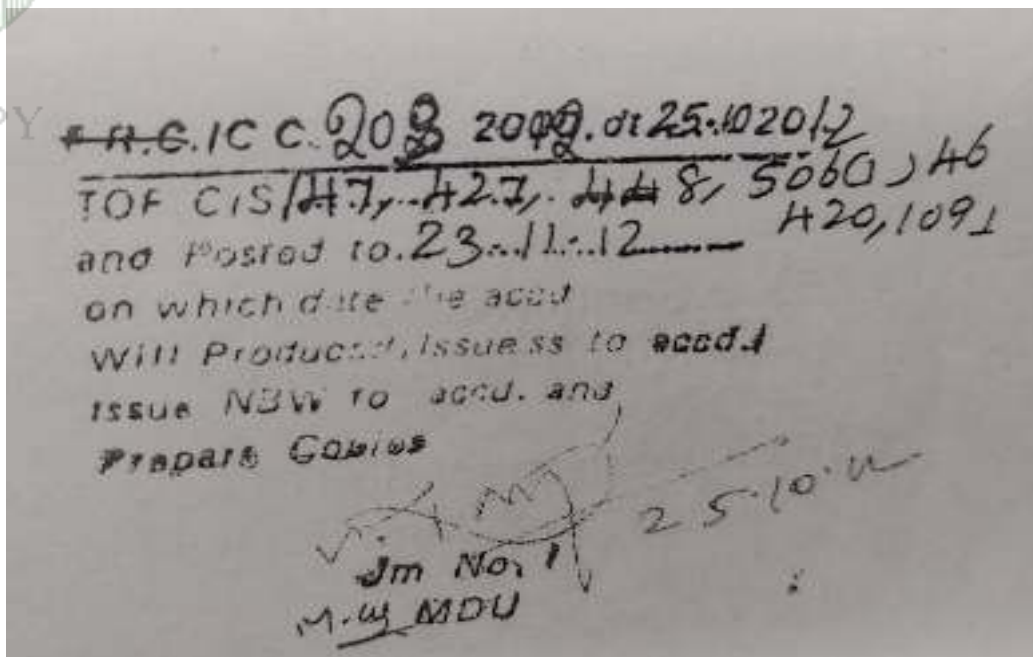
3.Heard the learned counsel for the petitioners and the learned Additional Public Prosecutor appearing on behalf of the respondent police.

4.Even though elaborate submissions were made on either side on merits, it is not necessary for this Court to deal with those submissions since, the cognizance taken by the Court below is a rubber stamp cognizance. For proper appreciation, the cognizance taken is scanned hereunder:



Crl.O.P.(MD)Nos.3623 of 2020 and 242 of 2021

WEB COPY



5.This Court by relying upon the judgment of the Apex Court has repeatedly held that the process of taking cognizance is a judicial process which requires application of mind. A rubber stamp cognizance is no cognizance in the eye of law since what is being done is to put the seal in the complaint and fill-up the gaps. Such rubber stamp cognizance has been frowned upon by this Court. Useful reference can be made to the judgment of this Court in *Shanmugam and others v. Inspector of Police, Ariyalur Police Station, Ariyalur and others*, reported in (2019) 3 MLJ (Crl.) 339. The Apex Court also dealt with this issue in *S.K.Sinha, Chief Enforcement Officer v. Videocon*



CrI.O.P.(MD)Nos.3623 of 2020 and 242 of 2021

International Ltd & Ors., reported in (2008) 1 SCC (CrI.) 471.

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6.In view of the above, the rubber stamp cognizance taken by the Court below on 25.10.2012 is hereby set aside. The matter is remitted back to the file of the learned Judicial Magistrate No.1, Madurai and the learned Judicial Magistrate shall apply his mind on the allegations made in the complaint and the materials relied upon and pass appropriate orders which must reflect the application of mind. This process shall be complied within a period of four weeks from the date of receipt of a copy of this order.

7.In the result, this Criminal Original Petitions are allowed in the above terms. Consequently, connected miscellaneous petitions are closed.

20.11.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
PKN



Crl.O.P.(MD)Nos.3623 of 2020 and 242 of 2021

To

WEB COPY

1. The Inspector of Police,
Land Grabbing Special Cell,
District Crime Branch, Madurai.
2. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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Crl.O.P.(MD)Nos.3623 of 2020 and 242 of 2021

N.ANAND VENKATESH,J.

PKN

Crl.O.P.(MD)Nos.3623 of 2020 and 242 of 2021

Dated: 20.11.2024