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CrI.O.P.(MD)No.4647 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **28.02.2024**

CORAM:

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

CrI.O.P.(MD) No.4647 of 2022
and
CrI.M.P(MD).No.3275 of 2022

Sabeena

... Petitioner

Vs.

1.The State Rep. through
Inspector of Police,
Thideer Nagar Police Station,
Madurai City.

2.Sharmila

... Respondents

PRAYER: Criminal Original Petition is filed under Section 482 of Cr.P.C, to call for the records of the charge sheet in C.C.No.883 of 2021 before the Judicial Magistrate-V, Madurai and quash the same by allowing the Criminal Original Petition.

For petitioner	: Mr.Vashik Ali for Mr.R.Murugan
For R1	: Mr.B.Nambiselvan Additional Public Prosecutor
For R2	: Mr.C.Jeganathan



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ORDER

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This petition has been filed to quash the charge sheet in C.C.No. 883 of 2021 on the file of the Judicial Magistrate-V, Madurai.

2. The case of the prosecution is that the petitioner is the wife of A1 and the defacto complainant is the sister of A1. The disputed property is owned by the petitioner's father-in-law. After demise of the petitioner's father-in-law, the petitioner's husband has executed the settlement deed in favour of the petitioner. In pursuant of which, the property was mortgaged. Aggrieved over the same, the defacto complainant filed a compliant before the respondent police on the ground that the petitioner's father-in-law have four legal heirs including the petitioner's husband. By omitting three legal heirs, the petitioner's husband alone obtained legal heirs certificate and executed the settlement deed in favour of the petitioner. Therefore, based on the complaint given by the defacto complainant, the respondent police registered the case in Crime No.74 of 2021 for the offences under Sections 181, 198 and 420 of IPC. After completion of investigation, the respondent police filed a final report before the concerned Court and the same was taken on file in C.C.No. 883 of 2021.



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3. The learned counsel for the petitioner submitted that the petitioner is the only beneficiary of the settlement deed executed by her husband. When the petitioner's husband is in abroad, the property was purchased by the father-in-law of the petitioner through her husband's money. In pursuant of which, the settlement deed was executed in favour of the petitioner. He further submitted that the petitioner was not involved in any offence as alleged by the prosecution and implicating the petitioner in the criminal case is mere harassment. Accordingly, he prayed for allowing this petition.

4. The learned counsel for the second respondent/defacto complainant submitted that admittedly, the property was owned by the first accused and the father of the defacto complainant. The defacto complainant's father died in the year 2017. However, the settlement deed was executed, after obtaining the legal heir certificate as if the petitioner's husband alone is the legal heir of the deceased persons, which is a clear case of forgery and cheating, for which the second respondent made a complaint. The petitioner is being beneficiary of the settlement deed, she mortgaged the property by creating the forged document.



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5. Heard both sides and perused the materials available on record.

6. When the petitioner's husband is in abroad, he sent money to his father. After receiving the money, his father purchased the above said property. Thereafter, the petitioner's husband executed the settlement deed in favour of the petitioner. In pursuant of which, the property was mortgaged by the petitioner. 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)*

7. In this case, no evidence was produced in support of the complaint made by the defacto complainant/second respondent against the petitioners. Hence, the case in C.C.No.883 of 2021 before the Judicial Magistrate-V, Madurai, is quashed. Accordingly, this Criminal Original Petition is allowed. Consequently, the connected miscellaneous petition is closed.

28.02.2024

Index : Yes/No
Internet : Yes/No
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To

- 1.The Judicial Magistrate-V, Madurai.

- 2.The State Rep. through
Inspector of Police,
Thideer Nagar Police Station,
Madurai City.

- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.



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M.DHANDAPANI. J.

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