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CrI.O.P.(MD)No.6046 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **04.03.2024**

CORAM:

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

CrI.O.P.(MD) No.6046 of 2022

and

CrI.M.P.(MD).No.4215 of 2022

Murugarasi

... Petitioner / Accused No.4

Vs.

1.The State represented by
the Inspector of Police,
District Crime Branch,
Madurai.
(In Crime No.4 of 2018)

2.Joseph

...Respondents

PRAYER: Criminal Original Petition is filed under Section 482 of Cr.P.C, to call for the records relating to C.C.No.12 of 2018 on the file of the Special Judicial Magistrate, Special Court for Exclusive Trial of Land Grabbing Cases, Madurai and quash the same.

For petitioner

: Mr.S.Loganathan

For R-1

: Mr.S.Manikandan,
Government Advocate
(Criminal Side)

For R-2

: Ms.K.Shawathini
for Mr.G.Prabhu Rajadurai



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ORDER

This petition has been filed seeking to quash the proceedings in C.C.No.12 of 2018 for the offence punishable under Sections 420, 506(i) and 120B IPC on the file of the Special Judicial Magistrate, Special Court for Exclusive Trial of Land Grabbing Cases, Madurai.

2. The case of the prosecution is that the land comprised in Survey Nos.147/1A to an extent of 1 Acre 32 ½ cents in Patta No.504 and Survey No.147/1B to an extent of 1 Acre 32 ½ Cents in Patta No.726 situated at Pothumbu Village, North Taluk, Madurai District, belonged to the second respondent herein. The same was purchased from the persons, viz., Kadar Badshah and Hasan Miya for a valuable consideration in a Sale Deed dated 12.02.2004 in Document No.947 of 2004. The second respondent claimed that he was in possession and enjoyment over the same. While such being so, Accused Nos.1 to 4 with mala fide intention to cheat the second respondent created a forged deed dated 14.03.2014 and registered in Document No.2545 of 2014, wherein, Accused Nos.1 to 3 made over the cultivating tenancy rights in favour of Accused No.4 without having any tenancy rights. Subsequently, all the



Accused are trying to alienate the said lands and they have filed a petition before the Tahsildar and the same was dismissed. When the second respondent questioned about the same, they threatened him with dire consequences. Due to which, the second respondent filed a complaint before the respondent Police and the same was registered in Crime No.4 of 2018. The respondent Police has conducted investigation and on completion of investigation, they have filed a charge sheet in C.C.No.12 of 2018 for the offence punishable under Sections 420, 506(i) and 120B IPC on the file of the Special Judicial Magistrate, Special Court for Exclusive Trial of Land Grabbing Cases, Madurai.

3. When the matter was taken up for hearing today, the learned counsel appearing for the petitioner has filed an affidavit before this Court. In the affidavit, it is stated that the petitioner will henceforth not engage in any action to harass the second respondent physically or orally in any manner and it is further stated by the petitioner that he will not claim any right upon the above said land in any manner.

4. Heard the learned Government Advocate (Criminal Side) appearing for the first respondent Police.



5. The learned counsel appearing for the second respondent would submit that this Court may quash the proceedings insofar as the petitioner is concerned and proceed the case as against the other accused.

5. When such a situation arose in similarly placed matters in Crl.O.P.(MD) Nos.406, 530 and 864 of 2016 (Prabu and others vs. State Rep. By The Inspector of Police and others), decided on 28.01.2016, this Court considered the various decisions rendered by the Hon'ble Supreme Court in this regard in several cases, namely, Gian Singh vs. State of Punjab and another [(2012) 10 SCC 303], B.S.Joshi vs. State of Haryana [(2003) 4 SCC 675], Nikhil Merchant vs. CBI [(2008) 9 SCC 677], Narinder Singh and others vs. State of Punjab and another [(2014) 6 SCC 466] and State of Madhya Pradesh vs. Manish and others [(2015) 8 SCC 307] and observed as under:

“11. If the offences against women and children and the IPC offences falling under the categories, like, murder, attempt to murder, offence against unsound mind, rape, bribe, fabrication of documents, false evidence, robbery, dacoity, abduction, kidnapping, minor girl rape, idol theft, preventing a public servant from discharging of his/her duty, outrage of woman modesty, counterfeiting currency notes or bank notes, etc., are allowed to be compounded, it will surely have serious repercussion on the society, as the above mentioned list is only illustrative and not exhaustive. Similarly, any compromise between the victim and the offender in relation to the offences clubbed with Special Enactment, like Arms Act, the Prevention of Corruption Act, TNPPDL Act, TNPID Act or the



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offences committed by Public Servants while working in that capacity, etc., cannot provide for any basis for quashing criminal proceedings involving such offences. As held by the Apex Court, insofar the offences arising out of matrimonial dispute, relating to dowry or the family disputes where the wrong is basically private or personal in nature, are concerned, the possibility of conviction is remote and bleak, in case the parties resolve their entire disputes amicably among themselves. This Court feels that there cannot be any compromise in respect of the heinous and serious offences of mental depravity and in that case, the Court should be very slow in accepting the compromise. If the compromise is entertained mechanically by the Court, the accused will have the upper hand. The jurisdiction of this Court may not be allowed to be exploited by the accused, who can well afford to wait for a logical conclusion. The antecedents of the accused have also to be taken into consideration before accepting the memo of compromise and the accused, by means of compromise, cannot try to escape from the clutches of law.

6. Taking note of the judgments referred to supra, considering the nature of allegations and in view of undertaken given by the petitioner, this Court is of the opinion that no useful purpose would be served in keeping the matters pending. Therefore, the entire proceedings in C.C.No.12 of 2018 for the offence punishable under Sections 420, 506(i) and 120B IPC on the file of the Special Judicial Magistrate, Special Court for Exclusive Trial of Land Grabbing Cases, Madurai in respect of the petitioner/accused alone, are hereby quashed and the trial Court is directed to proceed the trial insofar as Accused Nos.

1 to 3 in the manner known to law.



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Crl.O.P.(MD)No.6046 of 2022

7. Accordingly, this Criminal Original Petition is allowed on the basis of the undertaking affidavit filed by the petitioner. Consequently, connected miscellaneous petition is closed.

04.03.2024

Index : Yes/No
Internet : Yes/No
TSG

To

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



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M.DHANDAPANI. J.

TSG

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