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Crl.O.P.(MD)No.6095 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Date of Reserved : 18/12/2023

Date of Pronounced : 15/03/2024

CORAM

The Hon'ble Mr.Justice **G.ILANGOVAN**

Crl.OP(MD)No.6095 of 2023

and

Crl.MP(MD)No.5343 of 2023

1.Sathiyalakshmi

2.A.M.Rahman Alias

Mohamed Athequar Rahman

: Petitioners/A4 and A5

Vs.

1.State rep. by

The Inspector of Police,
Land Grabbing Cell,
Thoothukudi District,
Thoothukudi.

(In Crime No.28 of 2022)

: 1st Respondent/Complainant

2.Seenivasam

: 2nd Respondent/De-facto
Complainant

PRAYER:- Criminal Original Petition has been filed under section 482 of the Criminal Procedure Code, to call for the records pertaining to the impugned charge sheet in CC No.1 of 2023 on the file of the Special Court of Exclusive Trial of Land Grabbing Cases-II, Thoothukudi in so far as the petitioners and quash the same as against the petitioner as illegal and unsustainable and to pass such further orders.



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For Petitioners : Mr.T.Lajapathi Roy
Senior Counsel
for Mr.A.Balaji

For 1st Respondent : Mr.M.Sakthi Kumar
Government Advocate
(Criminal Side)

For 2nd Respondent : Mr.J.Suresh

O R D E R

This criminal original petition has been filed seeking quashment of the case in CC No.1 of 2023 on the file of the Special Court Exclusive Trial of Land Grabbing Cases-II, Thoothukudi.

2.The facts in brief:-

The de-facto complainant lodged a complaint stating that his father-in-law namely Athi Ramakrishnasamy owing lands comprised in various survey numbers in Chidambarapuram village, Ettayapuram Taluk, Tuticorin district. He was a permanent resident of Chennai. Later died, on 06/05/2009. His wife namely Mariammal predeceased him. For the parents, his wife namely Amsavalli, Rajalakshmi, Jeyaraman and Jeyakumar are the legal heirs. They jointly inherited the property of Athi Ramakrishnasamy. Later, he came to know that Jeyaraman/A1 and Jeyakumar/A2 obtained legal heir certificate as if they are the only legal heirs of the deceased and



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executed a power of attorney deed in favour of one Vignesh. In the above said document, Sathiyalakshmi and A.M.Rahman @ Mohamed Athequar Rahaman signed as witnesses. In pursuance of the above said power, he sold the property, on 06/05/2022 and 25/05/2022. The market value is about Rs.75,00,000/-. With these allegations, he filed the complaint, upon which, a case in Crime No.28 of 2022 was registered for the offences under sections 120-B, 465, 468, 471 and 420 of IPC. After completing the investigation, final report has been taken and it was taken cognizance in CC No.1 of 2023 by the trial court namely Special Court of Exclusive Trial of Land Grabbing Cases-II, Thoothukudi.

3. Seeking quashment of the final report, this petition is filed by the petitioners on the ground that they are the witnesses only to the power deed, dated 11/04/2022; They never indulged in any other activities alleged to have been committed in the issue. Being the witnesses, they are not expected to know the contents of the document; Mere signing of the document as witnesses will not lead that they are also party to the criminal activities alleged to have been committed by the other persons.



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4.Heard both sides.

5.As mentioned in the preamble portion of the order, the allegation against the petitioners is that they signed as witnesses in the document, dated 11/04/2022, which is a power deed executed by Jeyaraman and Jeyakumar. Even though, the petitioners are third parties to the issue, the fact remains that first petitioner/A4 is the wife of the main accused namely Jayakumar.

6.The allegation against the Jeyaraman and Jeyakumar is that they obtained the legal heirs certificate by giving wrong information or by mis-representation as if they are the only legal heirs. The first petitioner ought to have known that the other legal heirs of the deceased Athirama Krishnasamy are available. So the contention that without knowing the contents, she signed as witnesses to the document is completely out of place and cannot be accepted on its face value.

7.Similarly, the second petitioner also even though as a witness ought to have enquired about the document and the nature of the document and the exact family particulars before signing the document.



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8. Whether such enquiry was undertaken by him is a matter for consideration in the trial. Whether these two persons were also having complicity in the transaction is a matter for consideration by the trial court, since 120B IPC is also included. When section 120-B IPC is included, that got to be tried to its logical conclusion. This court sitting under section 482 Cr.P.C jurisdiction cannot take up the job of the trial court. The development during the course of the proceedings must also be placed on record at the time of moving the anticipatory bail. An offer was made by the petitioners in CrI.OP(MD)Nos.13038, 13149 and 14438 of 2022 that they are also ready either to deposit the share amount of the de-facto complainant's wife in the property sold or they are ready to give share to her, since the properties are remaining in their hands for sharing. On that account, they were directed to give the share amount to the de-facto complainant's wife. But they are not ready to receive the amount. It was ordered to be deposited to the credit of the crime number before the trial court. The amount was also deposited. Even at the time hearing the petitions, offer was made to settle the same, but the de-facto complainant was adamantly stated that since fake certificate has been obtained, they are not willing to make compromise. So it could not be carried on. On that



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account, the order of deposit amount cannot be taken into account in this matter for quashing the FIR. That order is applicable only to the anticipatory bail, considering the anticipatory bail and nothing more. The petitioners cannot take advantage of the above said order, it is made clear here.

9.In the result, this criminal original petition is **dismissed**. But however, considering the limited role alleged to have placed by them, the personal appearance of the petitioners is dispensed with on condition that the petitioners shall appear before the concerned trial court within a period of 15 days from the date of receipt of a copy of this order and file an undertaking affidavit, by affixing their recent passport size photograph to the effect that they will appear before the trial court as when required and must ensure their proper representation through Advocate. Consequently, connected Miscellaneous Petition is closed.

15/03/2024

Index:Yes/No
Internet:Yes/No
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To,

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- 1.The Special Court of Exclusive
Trial of Land Grabbing Cases-II,
Thoothukudi.
- 2.The Inspector of Police,
Land Grabbing Cell,
Thoothukudi District,
Thoothukudi.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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