



Crl.O.P.(MD)No.7329 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: **23.02.2024**

CORAM:

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

Crl.O.P.(MD) No.7329 of 2022
and
Crl.M.P.(MD)Nos.5009 and 7418 of 2022

Chithra

... Petitioner/A1

Vs.

1.The Inspector of Police,
District Crime Branch,
Theni District.
Crime No.33 of 2013

... 1st Respondent/Complainant

2.Valarmathy

... 2nd Respondent/Defacto Complainant

PRAYER: Criminal Original Petition is filed under Section 482 of C.P.C., to call for the records pertaining to the case in Crime No.33 of 2013 on the file of the Inspector of Police, District Crime Branch, Theni District and quash the same as against the petitioner.

For petitioner : Mr.R.Anand

For Respondents : Mr.B.Nambiselvan
Additional Public Prosecutor for R1

Mr.S.Sundarapandian for R2



ORDER

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This Criminal Original Petition has been filed to quash the impugned FIR in Crime No.33 of 2013, on the file of the first respondent police.

2.The case of the prosecution is that the second respondent/defacto complainant filed a complaint before the first respondent police alleging that she claims to be the legally wedded wife of one Vanaraj and they had two children. The petitioner was working as an employee in the land owned by the said Vanaraj and at that time, she developed intimacy with the said Vanaraj. Thereafter, that relationship was made to be cut based on the complaint given by the second respondent before the All Women Police Station, Uthamapalayam. For which, on 08.10.2012, her husband was killed at the instigation of the petitioner. Thereafter, the petitioner told the second respondent that the said Vanaraj had executed the Will in favour of her on 14.08.2012 and A3 and A4, who stood as witnesses. Based on the said Will, the petitioner has claimed the above said properties. Further, it is alleged that the said Will is a forged document and no marriage had taken place between the petitioner and her husband. That apart, within a short span of time, the said Vanaraj was murdered.



Hence, the first respondent police registered a case against the petitioner in Crime No.33 of 2013 for the offence punishable under Sections 465, 471 and 420 of IPC.

3.The learned counsel for the petitioner would submit that the petitioner is the second wife of the said Vanaraj. Earlier, the said Vanaraj had married the second respondent and they had two children and there was a property dispute between them. In this regard, the said Vanaraj filed a suit in O.S.No.86 of 2012 and the trial Court passed an *ex parte* decree in his favour on 22.08.2012. Pursuant to the mounted aggravation, the defacto complainant's son has murdered the petitioner's husband on 08.10.2012. For which, the police officials registered a criminal case against the second respondent's son and the police officials conducted investigation and filed a charge sheet in S.T.No.253 of 2016 on the file of the learned Principal District Judge, Nedumkandom. He would further submit that during lifetime of the petitioner's husband, the said Will was executed by him on 14.08.2012. However, the second respondent filed a complaint before the first respondent police as if the Will was a forged one and after enquiry, the case was closed as a 'Mistake of Fact' on 25.08.2019. Aggrieved by the same, the second respondent filed a petition under Section 156(3) of Cr.P.C. before the trial Court and based



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on the direction issued by the learned Magistrate, the present FIR came to be registered. All those issues arise in the present petition, is purely civil in nature and further, the petitioner's husband obtained a decree as against the first wife/defacto complainant and her son and daughter. Out of love and affection, he executed an unregistered Will in favour of the petitioner. Even, if it is true that the unregistered Will is a forged one, the remedy available to the second respondent is to file a civil suit before the trial Court, instead of filing the present petition before the respondent police, which is not sustainable one.

3.The learned counsel for the second respondent would submit that this Court may quash the FIR without entering into the merits of the case and grant liberty to the defacto complainant to file a suit before the competent civil Court to challenge the alleged Will executed by her husband in favour of the petitioner.

4.In view of the consent view expressed by the learned counsel for the second respondent/defacto complainant, the FIR in Crime No.33 of 2013 is hereby quashed and liberty is granted to the second respondent/defacto complainant to approach the civil Court for an appropriate remedy.



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5. With the above liberty, this Criminal Original Petition is allowed.

Consequently, connected miscellaneous petitions are closed.

23.02.2024

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

To

1. The Inspector of Police,
District Crime Branch,
Theni District.
2. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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M.DHANDAPANI. J.

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