



Crl.O.P.(MD)No.8122 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 18.12.2024

CORAM

THE HON'BLE MR.JUSTICE N.ANAND VENKATESH

Crl.O.P.(MD) No.8122 of 2023

and

Crl.M.P.(MD) No.7102 of 2023

Periyasamy

... Petitioner

Vs.

1.The Sub Inspector of Police,
Anti Land Grabbing Special Cell,
District Crime Branch,
Virudhunagar District.
Cr.No.33 of 2013.

2.K.Pappathiyamal

.... Respondents

PRAYER : Criminal Original Petition filed under Section 482 of Criminal Procedure Code, to call for the records relating to the impugned charge sheet in C.C.No.178 of 2020 on the file of the learned Judicial Magistrate No.II, Virudhunagar and quash the same.

For Petitioner : Mr.MV.Vasanthan

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



WEB COPY



Crl.O.P.(MD)No.8122 of 2023

ORDER

This petition has been filed seeking to quash the proceedings pending in C.C.No.178 of 2020 on the file of the learned Judicial Magistrate No.II, Virudhunagar.

2.Heard the learned counsel for the petitioner and the learned Additional Public Prosecutor appearing for the first respondent.

3.The case of the prosecution is that the property belonging to the defacto complainant was sought to be grabbed by creating fabricated documents and pursuant to the same, the documents were created and totally five accused persons were involved in this case. The petitioner is ranked as A5.

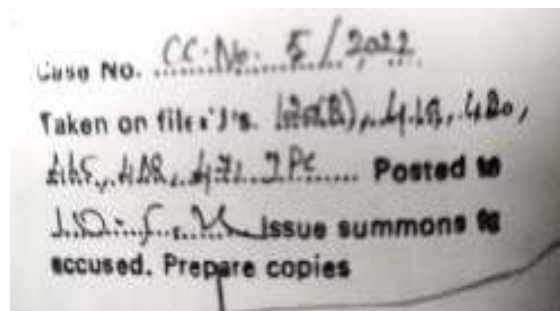
4.The learned Additional Public Prosecutor submitted that A1 and A2 have already died and therefore, the charges abate insofar as A1 and A2 are concerned.



Crl.O.P.(MD)No.8122 of 2023

WEB COPY

5.It is not necessary for this Court to go into any of the issues in view of the fact that the Court below has taken rubber stamp cognizance. For proper appreciation, the cognizance taken by the Court below is scanned and extracted hereunder:



6.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



Crl.O.P.(MD)No.8122 of 2023

issue in ***S.K.Sinha, Chief Enforcement Officer v. Videocon International Ltd & Ors.***, reported in ***(2008) 1 SCC (Crl.) 471.***

7.In view of the above, the rubber stamp cognizance taken by the Court below is hereby set aside. The matter is remitted back to the file of the learned Judicial Magistrate No.II, Virudhunagar 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.

8.In the result, this Criminal Original Petition is allowed in the above terms. Consequently, connected miscellaneous petition is closed.

18.12.2024

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



Crl.O.P.(MD)No.8122 of 2023

WEB COPY

To

- 1.The learned Judicial Magistrate No.II, Virudhunagar.
- 2.The Sub Inspector of Police,
Anti Land Grabbing Special Cell,
District Crime Branch,
Virudhunagar District.
- 3.The Additional Public Prosecutor
Madurai Bench of Madras High Court.



WEB COPY



Crl.O.P.(MD)No.8122 of 2023

N.ANAND VENKATESH,J.

PKN

Crl.O.P.(MD)No.8122 of 2023

Dated: 18.12.2024