



Crl.O.P.(MD)No.14001 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 04.12.2024

CORAM:

THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

Crl.O.P.(MD)No.14001 of 2022

and

CrI.M.P.(MD)No.9004 of 2022

P.M.Pandiyan

... Petitioner/A2

vs.

1.The Inspector of Police,
Kovilpatti East Police Station,
Kovilpatti,
Tuticorin District.
(Crime No.11 of 2012)

... Respondent/Complainant

2.Nashirud Nisha Begam

... Respondent/De-facto
Complainant

Prayer : Criminal Original Petition filed under Section 482 of Cr.P.C., to call for the records in C.C.No.217 of 2019 pending before the learned Judicial Magistrate No.I, Kovilpatti, Tuticorin District and quash the same against this petitioner/accused.

For Petitioner : Mr.KA.Raamakrishnan

For R1 : Mr.S.Ravi
Additional Public Prosecutor

For R2 : Mr.G.Mariappan



Crl.O.P.(MD)No.14001 of 2022

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ORDER

This petition has been filed to quash the proceedings pending in C.C.No.217 of 2019 on the file of the learned Judicial Magistrate No.I, Kovilpatti.

2. The 2nd respondent is the owner of 3 plots and she is claiming title for these plots by virtue of the settlement deed that was executed in her favour by her mother. The grievance of the 2nd respondent is that this property was dealt with and sold by virtue of 3 separate sale deeds dated 24.07.1996. On enquiry, the 2nd respondent came to know that A1 had only executed the sale deeds in favour of three persons. Based on the complaint of the 2nd respondent, one Pounraj, this petitioner and one Sankaran were shown as accused in the First Information Report registered in Crime No.116 of 2012 for the offence under Sections 419, 465, 467, 468, 471 and 420 of IPC. On completion of investigation, the name of the petitioner and the said Sankaran were deleted and the police report was filed only as against Pounraj. The Court below has taken cognizance for the offence under Sections 465, 467, 468, 471 and 420 IPC. However, the Court below, on going through the materials, came to the conclusion that the name of the



Crl.O.P.(MD)No.14001 of 2022

petitioner ought not to have been deleted from the final report.

Accordingly, the police report was taken cognizance by the Court below as against the said Pounraj and the petitioner, and the process was issued to the petitioner. An order was passed to that effect on 13.08.2019. Aggrieved by the same, the present quash petition has been filed by the petitioner (A2).

3. Heard Mr.KA.Raamakrishnan, learned counsel appearing for the petitioner, Mr.S.Ravi, learned Additional Public Prosecutor appearing for the 1st respondent and Mr.G.Mariappan, learned counsel appearing for the 2nd respondent.

4. This Court carefully considered the submission made on either side, and perused the materials available on record.

5. In the instant case, the property was originally owned by the mother of the 2nd respondent, and she got this property by the virtue of a partition deed dated 25.05.1995. The property consisted of various plots. After the other plots were sold, the plot Nos.1, 2 and 3 alone remained, and the mother of the 2nd respondent executed a settlement deed in favour of



Crl.O.P.(MD)No.14001 of 2022

the 2nd respondent in the year 2008. Thus, the 2nd respondent is claiming right and title over plot Nos.1, 2 and 3.

6. The grievance of the 2nd respondent is that by impersonation, these plots were sold by one Pounraj in favour of one Mariammal, Indrani and Shanthi through 3 separate registered sale deeds dated 24.07.1996. Therefore, the specific case of the 2nd respondent is that these documents are fabricated documents, since there is impersonation. In these 3 documents, the petitioner is said to have acted as the attesting witness.

7. The statement under Section 161 of Criminal Procedure Code, which was recorded from the 2nd respondent, makes certain allegations against the petitioner. However, in the guise of a further statement, the petitioner has been completely exonerated. In fact, the petitioner has been made as one of the witness and he has been shown as L.W.17 in the police report.

8. On carefully going through the final report as well as the statements recorded from the witnesses and also the documents which form part of the final report, it can be seen that a slipshod investigation has been



Crl.O.P.(MD)No.14001 of 2022

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conducted either intentionally or by a police officer, who does not know how to conduct an investigation in a case of this nature. The Investigating Officer has not even cared to find out as to who has impersonated the owner of the property and also did not care to get an expert report on the signatures that are found in the sale deeds which were executed in the year 1996. The said Pounraj has been added as an accused in the final report only on the ground that he was the one who sold the 3 plots in the year 1996. Admittedly, the petitioner was the attesting witness in these three documents. Therefore, if the petitioner is to be roped in this case, it can only be by way of adding the offence of criminal conspiracy. The offence under Section 120(b) of IPC does not even form part of the police report. If this Court permits the trial to be conducted with the available materials, obviously, the case will end up in acquittal.

9. In the light of the above discussion, the final report that has been filed before the Court below is liable to be interfered with by this Court, and this Court is inclined to transfer the investigation in this case to some other agency for further investigation and to file a supplementary charge sheet. Only if the further investigation is conducted, the entire truth will come out and there will be clarity in the case of the prosecution. That apart,



Crl.O.P.(MD)No.14001 of 2022

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even to fix the accused persons, there must be some material, and with the available material, the petitioner is sought to be roped in even without a charge under Section 120(b) of IPC.

10. The proceedings in C.C.No.217 of 2019 and the cognizance order passed by the Court below, dated 13.08.2019, is hereby set aside. The investigation is transferred to the file of the CB-CID. The 1st respondent shall hand over the entire case diary to the Additional Director General of Police, CB-CID, Chennai within a period of two weeks from the date of receipt of a copy of this order. On receipt of the same, the Additional Director General of Police, CB-CID, Chennai shall nominate an Investigating Officer not below the rank of the Inspector of Police and direct further investigation to be conducted in this case. A supplementary report shall be filed as expeditiously as possible before the trial Court. That apart, a separate enquiry shall also be initiated against the Investigating Officer in this case in order to ascertain as to whether this final report was filed either intentionally or due to his ignorance in conducting the investigation in a case of this nature.



Crl.O.P.(MD)No.14001 of 2022

WEB COPY

11. Accordingly, this Criminal Original Petition is disposed of with the above directions. Consequently, connected Criminal Miscellaneous Petition is closed.

04.12.2024

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Index : Yes/No

Speaking Order/Non-Speaking Order

Neutral citation : Yes/No

To

- 1.The Judicial Magistrate No.I,
Kovilpatti, Tuticorin District
- 2.The Additional Director General of Police,
CB-CID, Chennai.
- 3.The Inspector of Police,
Kovilpatti East Police Station,
Kovilpatti,
Tuticorin District.
- 4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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Crl.O.P.(MD)No.14001 of 2022

N. ANAND VENKATESH, J.

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Crl.O.P.(MD)No.14001 of 2022
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