



Crl.O.P.(MD)No.15415 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 22.03.2024

CORAM:

THE HON'BLE MR.JUSTICE C.KUMARAPPAN

Crl.O.P.(MD)No.15415 of 2020

and

Crl.M.P.(MD)No.7497 of 2020

A.Kathiresan

... Petitioner

vs.

1.The Inspector of Police,
District Crime Branch,
Madurai, Madurai District.
(Crime No.1 of 2000)

2.P.Sankaran

... Respondents

Prayer: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure praying to call for the records in pursuant to the impugned Charge Sheet filed in C.C.No.853 of 2019 on the file of the learned Chief Judicial Magistrate, Madurai and quash the same sofar as the petitioner is concerned.



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For Petitioner : Mr.M.Saravanakumar
For R1 : Mr.E.Antony Sahaya Prabahar
Additional Public Prosecutor
For R2 : No appearance

ORDER

The instant criminal original petition has been filed to quash the charge sheet in C.C.No.853 of 2019 pending before the learned Chief Judicial Magistrate, Madurai.

2. According to the FIR, the present petitioner is the second accused and the FIR has been registered against six accused. According to the allegation made in the FIR, during the year 1992, some of the Government servants and the employees and officers of Madurai City Municipal Corporation formed an un-registered association for purchase of plots for construction of houses. The said association consist of 402 Government Servants, and that an agreement dated 04.03.1992 was entered by the office bearers of the association with A1 Karuppaih. For the said purpose, 24 acres of land was purchased at the cost of



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Rs.59,54,701/-. Though the entire amount was paid to the said Karuppai, it appears that he had allotted only 77 plots consisting of 5 cents each and that the first accused has also induced all the owners to execute a sale deed in favour of the second accused, so as to get more profit in selling the land. However, the first and second accused colluded together and has committed breach of trust and cheating against the defacto complainant. Hence, the case has been reregistered. In pursuance thereof, the Crime Branch of Madurai District has investigated the offence and also examined many witnesses.

3. The learned counsel for the petitioner would submit that the petitioner is aged about 75 years and the alleged transaction that had took place during 1992 and according to the learned counsel for the petitioner as against the present petitioner, there is no overt act. Therefore, the continuance of the criminal proceedings is an abuse of process of law. Hence, he prayed to quash the same.

4. The learned Additional Public Prosecutor appearing for the



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first respondent has strongly objected the said contention and has invited the attention of this Court in respect of the specific overt act against the second accused.

5. This Court also perused the 161 Cr.P.C statements of various witnesses, wherein this Court finds prima facie materials against the present petitioner. It is pertinent to mention here that while exercising jurisdiction under Section 482 Cr.P.C., this Court cannot go into the merits of the matter and minute details in respect of the defence of the respective parties. It is well settled principles of law that if unrebutted averments made in the complaint and 161 Cr.P.C. statements is not make out an offence, then only this Court can interfere under Section 482 Cr.P.C. As rightly pointed out by the learned Additional Public Prosecutor, there are sufficient prima facie materials in the case, by way of 161 Cr.P.C. statements of various witnesses, against this petitioner. Therefore, while exercising inherent jurisdiction, this Court cannot interfere in the trial proceedings which is pending before the learned Judicial Magistrate's Court. Therefore, this Court is of the firm view that



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there is no merit in this criminal original petition.

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6. In the result, this Criminal Original Petition is dismissed.

However, considering the age of the petitioner as he being 75 years old, this Court deem it appropriate to dispense with the presence of the petitioner before the trial Court, except whenever he is called for by the trial Court, for receiving the copy of the complaint, for questioning under Section 313 Cr.P.C and while pronouncing of judgment.

22.03.2024

NCC: Yes/No

Index : Yes/No

Speaking/Non-Speaking order

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To

1.The Chief Judicial Magistrate,
Madurai.

2. The Inspector of Police,
District Crime Branch,
Madurai, Madurai District.

3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

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C.KUMARAPPAN, J.

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