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Crl.O.P.(MD)No.16786 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **04.04.2024**

CORAM:

THE HONOURABLE MR.JUSTICE A.A.NAKKIRAN

Crl.O.P.(MD) No.16786 of 2021

and

Crl.M.P.(MD).Nos.9069 & 9070 of 2022

Baskaran

... Petitioner / Accused No.5

Vs.

1.The State represented by
The Inspector of Police,
District Crime Branch, Theni.

(Crime No.5 of 2020)

... Respondent/Complainant

2.Parthiban

... Respondent/Defacto Complainant

PRAYER: Criminal Original Petition is filed under Section 482 of Cr.P.C, to call for the records in C.C.No.23 of 2021 on the file of the learned Judicial Magistrate, Theni.

For petitioner : Mr.N.Mohideen Basha

For R1 : Mr.R.M.Anbunithi
Additional Public Prosecutor

For R2 : Mr.K.Jeya Mohan

ORDER

This petition has been filed seeking to quash the proceedings in C.C.No.23 of 2021 pending on the file of the learned Judicial Magistrate, Theni, against the petitioner herein.



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2. The case of the prosecution is that the petitioner (A5) and A3 are the sons of A2. A3 & A4 had attested as witnesses to the alleged settlement deed. The property comprised in S.No.62/4A to an extent of 2.24 acres at Odaipatti Village, Uthamapalayam Taluk, Theni District, was originally belonged to Chandra and her son Karthik Raja. Both have executed a power deed in favour of defacto complainant's elder paternal uncle namely, Logandurai. Thereafter, the grandfather of the defacto complainant namely, Gurunathan had purchased the same from the above said Logandurai and the patta was also stood in the name of the said Gurunathan. Thereafter, he executed a gift deed in favour of his grandson namely, the defacto complainant herein vide D.No.5279 of 2015 and thereafter, he is in possession of the same. While being so, A1 had given a gift settlement on the strength of a forged Patta No.1916 vide D.No. 3695 of 2015 (SRO Chinamanur), dated 10.08.2018. Originally, A1 has no legal heir. However, she falsely claims that A2 is her adopted son and executed the said gift settlement. Thereby, the defacto complainant lodged a complaint before the respondent police against the accused and the same was registered in Crime No.5 of 2020 for the offences punishable under Sections 465, 468, 471, 472, 420 and 120B of IPC. The respondent police conducted the investigation and after completion of investigation, filed charge sheet before the learned Judicial Magistrate,



Theni, and the same was taken on file in C.C.No.23 of 2021 for the offences punishable under Sections 465, 468, 471, 472, 420, 120B and 506(1) of IPC.

3. Aggrieved against the same, present petition has been filed.

4. The learned counsel appearing for the petitioner submitted that the petitioner is an innocent and he has been falsely implicated in this case. He further submitted that the alleged settlement deed was executed in the year 2018. After a lapse of 2 years, present FIR has been registered against the petitioner and others and there is no explanation for the delay. Even in the FIR, there is no overt act has been attributed as against the petitioner. Even in the Charge Sheet, there was no allegation against the petitioner as to how he conspired with other accused persons. The dispute between the parties is purely a civil dispute. The defacto complainant tried to give a criminal colour to the dispute which is civil in nature. Hence, the charge sheet filed against the petitioner is liable to be quashed and prayed for allowing this petition.



5. The learned Additional Public Prosecutor appearing for the State submitted that the allegation against the petitioner is serious in nature. He along with other accused forged the patta and thereafter, executed the settlement deed in favour of A2. There are materials available to proceed with the case as against the petitioner herein and at the threshold, the criminal proceedings cannot be quashed and the charge against the petitioner have to be gone into only at the time of trial and hence, he prayed for dismissal of the petition.

6. Heard the learned counsel for the petitioner, learned counsel appearing for the second respondent and the learned Additional Public Prosecutor appearing for the State.

7. Even though, the petitioner denied the allegations stated in the case, the final report was filed and the same has been taken on file in C.C.No.23 of 2021. The points raised by the petitioner are the triable issues and the same has to be decided only by the trial Court. The petitioner is having right to put forth his defence. Therefore, I find that there is no merit in this petition and hence, the same is liable to be dismissed. Accordingly, this Criminal Original Petition is dismissed. Consequently, connected miscellaneous petitions are closed.



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8. In the said circumstances, the learned counsel appearing for the petitioners seeks early disposal of the proceedings in C.C.No.23 of 2021 and to dispense with the personal appearance for the petitioner before the trial Court.

9. Taking into consideration the request as made by the learned counsel for the petitioner, the appearance of the petitioner before the trial court is dispensed with except for her appearance for the purpose of receiving the copy of the proceedings u/s 207 Cr.P.C., framing of charges, questioning under Section 313 Cr.P.C. and on the day on which judgment is to be pronounced. However, if for any particular reason, the presence of the petitioner is necessary, the trial court, at its wisdom, shall direct her appearance on those days. Further, the learned Judicial Magistrate, Theni, is directed to complete the trial proceedings in C.C.No.23 of 2021 within a period of three months from the date of receipt of a copy of this order.

04.04.2024

NCC : Yes/No
Index : Yes/No
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A.A.NAKKIRAN. J.

dss

To

1. The Judicial Magistrate,
Theni.
2. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

CrI.O.P.(MD) No.16786 of 2021
and
CrI.M.P.(MD).Nos.9069 & 9070 of 2022

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