



Crl.O.P.(MD)No.16374 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **10.12.2024**

CORAM

THE HON'BLE MR.JUSTICE N.ANAND VENKATESH

Crl.O.P.(MD) No.16374 of 2022

and

Crl.M.P.(MD) Nos.10895 and 10896 of 2022

1.Kamamuttai @ Shahul Hameed

2.Shajahan Beevi

... Petitioners

Vs.

1.The Inspector of Police,
Adiramapattinam Police Station,
Thanjavur District.
Crime No. 104 of 2017.

2. Jamal Mohamed

... Respondents

PRAYER : Criminal Original Petition filed under Section 482 of Criminal Procedure Code, to call for the records relating to the charge sheet in C.C No. 38 of 2021 on the file of the Judicial Magistrate Court, Pattukottai and quash the same as against these petitioners as illegal.

For Petitioners : Mr.J.Sulthan Basha

For Respondents : Mr.S.Ravi
Additional Public Prosecutor
for R1
Ms.Seeni Syed Amma



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for M/s.Lajapathi Roy Associates
for R2

ORDER

This quash petition has been filed by A1 and A6 challenging the proceedings in C.C.No.38 of 2021 pending on the file of the learned Judicial Magistrate, Pattukottai.

2.The second respondent gave a complaint to the effect that one Mohammed Noordeen died leaving behind his properties and he had no issues. As per the law in force, only his brothers will be treated as the legal heirs and accordingly, Mohamed Salik and Mohideen Abdul Kader who are the brothers have to be construed as the legal heirs of late Mohammed Noordeen. After their demise, their legal heirs initiated civil proceedings and the decree came to be passed in favour of Sulaika ammal, Salma ammal, Jumma ammal, Paritha and Iman Sha. While so, in order to grab the property belonging to Mohammed Noordeen, the accused persons conspired together and a sale deed came to be executed on 13.06.1996 by A1 in favour of his son and daughter for whom the second petitioner (A6) stood as a guardian. Based on this complaint, an



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FIR came to be registered in Crime No.104 of 2017 by the first respondent.

3.On completion of investigation, a police report was filed before the learned Judicial Magistrate, Pattukottai for offence under Sections 420, 465, 468 and 471 of IPC as against six named accused persons. The Court below took cognizance of the same and issued process to the accused persons. Aggrieved by the same, the petitioners who are arrayed as A1 and A6 have filed this quash petition.

4.It was brought to the notice of this Court that the first petitioner (A1) died during the pendency of this case and hence, the criminal proceedings stands abated insofar as the first petitioner is concerned. Hence, this Court has to see if the proceedings can continue against the second petitioner (A6) who is none other than the wife of A1.

5.Heard the learned counsel for the petitioners, the learned Additional Public Prosecutor appearing on behalf of the first respondent and the learned counsel for the second respondent.



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6. In the considered view of this Court, the overt act that has been attributed against the second petitioner (A6) is that she was aware of the fact that A1 did not have any right or title over the property and in spite of the same, she stood as a guardian to the son and daughter and the sale deed came to be executed in their favour and thereby, the entire properties were attempted to be knocked off by the accused persons. This Court must take into account the fact that the second petitioner (A6) is only the wife of A1 and if the husband directs the wife to act as a guardian for the children, the wife cannot act against the husband and she would have to mechanically lend her name as a guardian for the children. In other words, without knowing the consequence, the second petitioner (A6) stood as a guardian for the children and it is A1 who had the complete knowledge regarding the transaction. Therefore, the very fact that the second petitioner (A6) stood as a guardian should not result in the second petitioner (A6) undergoing the ordeal of trial. The offence of criminal conspiracy cannot be attributed against the second petitioner (A6) since she is after all the wife of A1 and she was acting as per the directives given by A1.



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7.In the light of the above discussion, the continuation of the criminal proceedings against the second petitioner (A6) will result in abuse of process of law and the same requires the interference of this Court .

8.In the result, the proceedings in C.C.No.38 of 2021 on the file of the learned Judicial Magistrate, Pattukottai, is hereby quashed insofar as the second petitioner (A6) is concerned. The Court below can proceed further with the case as against the other accused persons and the proceedings in C.C.No.38 of 2021 shall be completed within a period of six months from the date of receipt of a copy of this order.

9.This Criminal Original Petition is allowed with the above directions. Consequently, the connected miscellaneous petitions are closed.

10.12.2024

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

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To

- 1.The Inspector of Police,
Adiramapattinam Police Station,
Thanjavur District.
- 2.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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N.ANAND VENKATESH,J.

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