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Crl.O.P.(MD)No.20555 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 26.11.2024

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THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

Crl.O.P(MD)No.20555 of 2024

and

Crl.M.P.(MD)Nos.12675 and 12676 of 2024

1.Rajeswari

2.Leeladevi @ Leelavathi

... Petitioners

-Vs-

1.The State of Tamil Nadu represented by its
The Inspector of Police,
District Crime Branch,
Virudhunagar District.

2.Chinnasamy

... Respondents

Prayer: Criminal Original Petition - filed under Section 528 of Bharatiya
Nagarik Shuraksha Sanhita, to call for the records relating to the charge
sheet in C.C.N.556 of 2023 pending on the file of the learned Judicial
Magistrate-I, Virudhunagar and quash the same as against the petitioners.

For Petitioners	: Mr.G.Karuppasamypandiyan
For R1	: Mr.K.Sanjai Gandhi
	Government Advocate (Crl.side)

ORDER

This Criminal Original Petition has been filed to quash the case in
C.C.N.556 of 2023 pending on the file of the learned Judicial Magistrate-
I, Virudhunagar.



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2.The petitioners are the second and third accused facing trial in C.C.No.556 of 2023 for the offence under Sections 120 (b), 420, 423, 465, 468 and 471 IPC. The contention of the petitioners is that the first petitioner is the power of attorney of the first accused and based on that power deed, the first petitioner has executed a sale deed in favour of M/s.EVP and Leel Devi Agro Technology Private Limited/who is the third accused in this case, by way of a registered sale deed dated 01.08.2007. Later, on coming to know about the fact that the first accused has no valid right over the property in question, the petitioners had cancelled the sale deed by document dated 04.09.2012. The encumbrance made by way of this sale transaction has also been removed even prior to the registration of the case by the defacto complainant. Further, there is no question of any impersonation or creating any forged document and hence, the offence of forgery or cheating does not arise at all.

3.The learned Government Advocate (Crl.side) appearing for the first respondent submitted that the second and third accused in this case are the mother and daughter. The first accused executed a power of attorney deed in favour of the second accused and in turn, the second accused executed a sale deed in favour of the third accused. In this case,



all the accused have conspired together and created forged document with regard to the property in question. If any document is created with false particulars, that would amount forgery. Hence, the act of the accused persons shows that they have committed the offence of forgery. Further, the document was created in the year 2007 and it was cancelled only after a period of five years that is in the year 2012. In the meanwhile, the third respondent had not taken any steps to take possession of the property or even to visit the property. The accused have created the forged documents with ulterior motive. Hence, the act of the accused persons attracts criminal offence and opposes this petition.

4.Heard the learned counsel appearing on either side and perused the materials placed on record.

5.It is the contention of the petitioners that the petitioners without knowing the fact that the first accused has no right over the subject property has executed the sale deed by using the power of attorney executed in favour of the first petitioner and later, they had cancelled the same. In this case, there is a disputed question of fact involved as to whether the petitioners have executed a forged documents or not and the same can be considered only during trial Court. Further, the contentions



Crl.O.P.(MD)No.20555 of 2024

raised by the petitioner before this Court can very well be raised before the trial Court during trial process.

6.In view of the above, this Court is not inclined to entertain this petition. Accordingly, this Criminal Original Petition is **dismissed**.

7.At this stage, the learned counsel for the petitioners seeks to dispense with the personal appearance of the petitioners.

8.Considering the submission made by the learned counsel for the petitioners and also considering the fact that the petitioners are ladies, the personal appearance of the petitioners is dispensed with except their personal appearance is exclusively required by the trial Court and Crl.M.P.(MD)No.12676 of 2024 is allowed. The petitioners shall also file an undertaking affidavit before the trial Court stating that they will cooperate for trial process and they will appear through their counsel on all hearing dates without fail. Consequently, connected miscellaneous petition is closed.

26.11.2024

Index : Yes/No

Internet : Yes/No

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Crl.O.P.(MD)No.20555 of 2024

To

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- 1.The Judicial Magistrate-I,
Virudhunagar.
- 2.The Inspector of Police,
District Crime Branch,
Virudhunagar District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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Crl.O.P.(MD)No.20555 of 2024

M.NIRMAL KUMAR,J.

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