



Crl.O.P.(MD)No.21841 of 2024

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 12.12.2024

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THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

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J.Gnanasigamani

... Petitioner

Vs

S. Ramasamy

... Respondent

PRAYER : Criminal Original Petition filed under Section 528 of BNSS, to call for the records and set aside unnumbered the impugned Docket order, dated 14.06.2024 passed by the learned District Munsif cum Judicial Magistrate, Cheranmahadevi and direct the learned District Munsif cum Judicial Magistrate, Cheranmahadevi to number the petition filed by the petitioner under Section 340 r/w 195 Cr.P.C and proceed the same in accordance with law.

For Petitioner : Mr.N.Dilipkumar

For Respondent : No Appearance

ORDER

The Criminal Original Petition has been filed to set aside the unnumbered the impugned Docket order, dated 14.06.2024 passed by the learned District Munsif cum Judicial Magistrate, Cheranmahadevi and to



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direct the learned District Munsif cum Judicial Magistrate, Cheranmahadevi to number the petition filed by the petitioner under Section 340 r/w 195 Cr.P.C and proceed the same in accordance with law.

2.The petitioner has been shown as an accused based on a complaint given by the respondent under Section 156(3) of Cr.P.C in Crl.M.P.No.4565 of 2023. Thereafter, based on the order passed by the learned Magistrate on 02.08.2023, the Sub-Inspector of Police, Cheranmahadevi Police Station had registered an FIR in Cr.No.242 of 2023 against the petitioner and nine others for the offence punishable under Sections 465, 466, 468, 471 and 420 IPC.

3.The case of the respondent is that the respondent is a retired Professor. On 25.07.2008, he had purchased property from one Ganasigamani/Petitioner and Rajkumar to an extent of 84 cents in S.No. 210/N, 11 cents in S.No.209/5A2 and 2 Acres and 30 cents in S.No. 210/3B. The said properties were sold to him by his vendors through their power of attorney Kalavathi, who is none other than the wife of the



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respondent. However, on 04.02.2023, the said Gnaasigamani and Rajkumar/vendors had informed him that they had once again sold the properties in S.No.210/N, S.No.210/3B to other individuals through their yet another power of attorney, Mr.Kasimani, who is no more. He has also been given with a copy of power of attorney deed, dated 14.12.2005. Thereafter, on a perusal of power of attorney it was found that there has been some interpolation in the said power of attorney deed. Thereby, the petitioner and others have committed the offence and by using the forged power of attorney deed, they had created sale deeds bearing Nos.761/2008, 155/2010, 171/2010 and 144/2010.

4.It is the contention of the petitioner that though the learned Magistrate had directed the concerned SHO to conduct a preliminary enquiry, thereafter, if cognizable offence is made out, to register an FIR. However, a case has been registered by the concerned SHO within half an hour from the date of receipt of the order, without conducting a preliminary enquiry and FIR has also been registered in Cr.No.242/2023 against the petitioner and 9 others.



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5.It is further submitted by the learned counsel for the petitioner that the respondent had misled the Court by projecting as if, there are corrections in the power of attorney deed and thereby, the petitioner had committed the act of forgery and cheating. Even in the original document as well as in the copy of the document, which has been filed before the Registration Office, the said correction/interpolation is there. The respondent has also obtained only the certified copy of all the documents, which are available in the Sub Registrar Office and in all the documents, the said correction is there. There is no interpolation as projected by the respondent. However, the respondent had made a false complaint by filing a petition under Section 156(3) of Cr.P.C and obtained an order to register an FIR.

6.When the petitioner filed a petition under Section 340 r/w 195 of Cr.P.C, the trial Court has not considered the same and returned for the reason that only after completion of the investigation, in case of a negative final report or completion of the trial, this Court will be in a better position to decide whether the defacto complainant filed a false affidavit and obtained an order from this Court. The reasons stated by



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the learned Magistrate is not proper. Hence, this petition has been filed.

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7.Heard the learned counsel for the petitioner. Perused the materials available on record.

8.It is seen from the records that the respondent has projected a case as if, forgery has been committed by the petitioner and others. However, there is no interpolation in the Certified Copy, in the copies available in the Sub Registrar Office and also in the original document, which is proved on the face of records. Hence, no forgery committed on the part of the petitioner and others. For arriving at such a conclusion, it is not necessary to wait till filing of final report. It is clear that the respondent had misrepresented the Court as if the petitioner had committed the act of forgery and gave a false statement and thereby, obtained an order from the learned Magistrate.

9.In view of the aforesaid facts and circumstances of the case, the impugned docket order, dated 04.06.2024 is hereby set aside and the learned Magistrate is directed to number the petition filed by the



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petitioner and consider his contention on its own merits and pass appropriate orders in accordance with law.

10. With the above directions, this Criminal Original Petition stands disposed of.

12.12.2024

NCC : Yes / No

Index : Yes / No

Note : Registry is directed to return the original papers to the petitioner after retaining a photocopy of the same.

PNM

To
The District Munsif cum Judicial Magistrate, Cheranmahadevi



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M.NIRMAL KUMAR, J.

PNM

ORDER IN
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