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Crl.O.P.(MD).No.22466



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 11.12.2024

CORAM:

THE HONOURABLE MR. JUSTICE N.ANAND VENKATESH

Crl.O.P.(MD).No.22466 of 2023

and

Crl.M.P.(MD).Nos.1918 of 2024 and 17577 of 2023

N.R.Krishnamoorthy Raja

...Petitioner

Vs.

1.State represented by
the Inspector of Police,
Anti Land Grabbing Special Cell,
DCB (ALGSC) TN.1, Theni District,
Crime No.48 of 2012

2.Rathinam

...Respondents

PRAYER: Criminal Original Petition filed under Section 482 Cr.P.C. to call for the records relating to the charge sheet filed by the first respondent in C.C.No.356 of 2023 on the file of the Judicial Magistrate Court, Andipattai, Theni District and quash the same as against this petitioner.

For Petitioner

: Mr.S.Natarajan,
for Ms.Vijayakumari Natarajan

For R-1

: Mr.A.Albert James,
Government Advocate (Crl. Side)

For R-2

: Mr.N.Kaliraj



ORDER

This petition has been filed to quash the proceedings in C.C.No.356 of 2023 on the file of the Judicial Magistrate Court, Andipattai, Theni District insofar as against this petitioner.

2. The second respondent gave a complaint to the first respondent stating that the subject property originally belonged to Seenithevar. One Valarmathi was forcibly claiming patta for the very same property and this became a dispute and this dispute was prosecuted by the father and at that time, Accused No.1 was assisting his father. The case reached up to the Hon'ble Apex Court and by then, the said Seenithevar died and Accused No.1 started prosecuting the case. Accused No.1 succeeded in the case and the grievance is that he managed to get the patta for the entire property in his name on 16.05.2008. According to the second respondent, Accused No.1 merely has a share in the property and whereas, he has dealt with the entire property and thereby, deprived the share of the other legal heirs of late Seenithevar. Subsequently, the property was sold in favour of the petitioner (Accused No.6) through a registered sale deed dated 14.07.2008. Based on the same, the petitioner got the revenue records mutated in his name and a patta was issued in favour of the petitioner on 25.07.2008. Accused No.6 in turn sold this property in favour of Accused No.7 through a registered sale deed dated 26.12.2008. It is under these circumstances, a complaint came to be given by the second



respondent and based on the same, an FIR came to be registered in Crime No.48 of 2012.

3. On completion of investigation, the Police report was initially filed before the Sub Court for Land Grabbing Cases, Theni and the same was taken on file in C.C.No.276 of 2016. The Sub Court took cognizance for the offences under Sections 120(b), 465, 468, 471, 420, 294(b) and 506(ii) of IPC. The process was issued to 10 named accused persons. The petitioner, who was arrayed as Accused No.6 filed a quash petition in Crl.O.P.(MD).No.18426 of 2022. When this quash petition was pending, the case was transferred to the file of the learned Judicial Magistrate, Andipatti, Theni District and it was renumbered as C.C.No.356 of 2023. Hence, another quash petition has been filed in Crl.O.P.(MD).No.22466 of 2023.

4. Heard the learned counsel appearing on either side.

5. It is an admitted case that the petitioner (Accused No.6) is a subsequent purchaser, who came into the scene by virtue of a registered sale deed dated 14.07.2008. The actual dispute is between the second respondent and his brothers and the petitioner was caught in the cross fire. The petitioner purchased the property from Accused No.1, since the patta stood in his name. Subsequently, the patta was also transferred in the name of the petitioner after he purchased the property through



proceedings dated 25.07.2008. The petitioner thought it fit to deal with the property and sold the property in favour of Accused No.7 through a registered sale deed dated 26.12.2008.

6. In the case in hand, the FIR itself came to be registered only in the year 2012. The entire allegations even if it is taken as it is will not constitute any offence against the petitioner. Insofar as the offences under Sections 465, 468, 471 of IPC by no stretch, it can be made out against the petitioner. Useful reference can be made to the judgment of this Court in the case of ***T.Muthuramalingam Vs. The Inspector of Police, DCB and others*** reported in ***(2018) 4 MLJ (Crl) 392*** and this Court followed the judgment of the Hon'ble Apex Court in the case of ***Mohamed Ibrahim Vs. State of Bihar*** reported in ***(2009) 8 SCC 751***. In that judgment, the Hon'ble Apex Court was dealing with the expression “false document as defined under Section 464 of IPC”. It was held that when a document is executed by a person claiming a property which is not his property, that by itself does not satisfy the requirement of a false document as defined under Section 464 of IPC. If it is not a false document, consequently, the offence of forgery is also not attracted.

7. In the instant case, the allegation against Accused No.1 is that he had dealt with the entire property including the share of the *defacto* complainant. That by itself, will not constitute an offence of forgery and creation of false document. It



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is more so, since the petitioner was only a subsequent purchaser of the property and he was not even in the scene when Accused No.1 got the patta transferred in his name.

8. The other offences under Sections 294 and 506 (ii) of IPC is also not made out against the petitioner, since the wordy quarrel and empty threats by itself cannot constitute the offence.

9. This Court must also take into consideration the fact that the second respondent has already instituted a suit in O.S.No.14 of 2019 on the file of the District Court, Theni, seeking for the relief of partition and for the allotment of 1/6th share in the property. Therefore, the second respondent has to effectively work out his remedy only in the pending suit and get his share in the property. The continuation of the proceedings as against the petitioner (Accused no.6) will result in abuse of process of law and the same requires the interference of this Court.

10. In the result, the proceedings in C.C.No.356 of 2023 on the file of the Judicial Magistrate Court, Andipattai, Theni District, is hereby quashed insofar as the petitioner is concerned. Consequently, connected miscellaneous petitions are closed.

11.12.2024

Index : Yes / No

Internet : Yes / No



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Speaking Order/Non Speaking Order
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- To
- 1.The Judicial Magistrate, Andipatti, Theni District.
 - 2.The Inspector of Police,
Anti Land Grabbing Special Cell,
DCB (ALGSC) TN.1, Theni District,
Crime No.48 of 2012
 - 2.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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N.ANAND VENKATESH, J.

TSG

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