

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 22.04.2015

CORAM

THE HONOURABLE MR.JUSTICE P.N.PRAKASH

Cr1.OP No.10158 of 2015

and

M.P.No.1 of 2015

1.Kumudam
2.D.Baskaran

... Petitioners

Vs

1. The State rep. by
The Inspector of Police
Reddiyarpalayam Police Station,
Crime No.163 of 2012,
Puducherry.

2. Lakshmi Bai
rep by her Power Agent S.Sivagovindaraj

... Respondents

Prayer:- Criminal Original Petition filed under Section 482 Cr.P.C., to call for the records relating to the FIR in Crime No.163 of 2012 on the file of the first respondent, quash the same by allowing this criminal original petition.

For Petitioners : Mr.N.Manokaran

For Respondents : Mr.Thangavel,
Additional Public Prosecutor
(Pondichery) for R1

ORDER

This petition is filed seeking for a direction to quash the FIR in Crime No.163 of 2012 pending on the file of the 1st respondent.

2. Heard the learned counsel for the petitioner and the learned Additional Public Prosecutor (Pondichery) appearing for the 1st respondent.

3. It is the case of the defacto complainant that she is the owner of a property in Plot No.2, bearing R.S.No.166/1M, oulgaret

Revenue Village and that the petitioners are the owners of Plot No.31. It is alleged by the defacto complainant that the 1st petitioner executed a settlement deed dated 30.10.2009 in respect of Plot No.31 belonging to her and in that settlement deed, she has included the area covered in Plot No.2 and also conveyed the same to the 2nd petitioner. In this regard, a complaint was given before the learned Judicial Magistrate I, Puducherry and the same has been referred to the police under Section 156(3) Cr.P.C. and FIR has been registered. Challenging which, this quash application is filed.

4. This Court perused the complaint given by the defacto complainant. In page No.3 of the complaint, she has stated as follows:

"As per the power given by the principal, the power Holder Sivagovindaraj made a complaint along with necessary documents on 14.11.2011 to the Senior Superintendent of Police for taking severe action against Mr.Baskaran and his wife Kanimozhi. The above complaint was forwarded to Inspector of Police (STF) for making enquiry. The Inspector of Police (STF) investigated the matter and he has sent a letter to the Assistant Director, Survey and Land records requested to measure the two plots i.e., plot No.31 and 2 and submit the report. Accordingly, on 11.01.2012 the surveyor visited the spot along with Sub Inspector, Reddiarpalayam P.S. and measured the properties and the surveyor has given detailed survey report and the same is forwarded to Inspector of Police (STF) by the Assistant Director, Survey and Land Records on 10.02.2012.

Even though, the detailed survey report received in the month of Feb 2012 and having knowledge that there is a prima facie case made out against the accused persons, the concerned police has failed to register a case/FIR so far. The complainant is also contacted Police Officer personally for taking action on his complaint but no fruitful result so far. Hence this complaint."

5. Therefore, there appears to be a prima facie case for investigation and hence, the FIR cannot be quashed. At the same time, it should also be seen whether the claim of the defacto complainant is genuine or bogus one. Hence, a direction is given to the respondent police to look into the revenue Surveyor's Report mentioned above and expeditiously conduct an enquiry. If it is found that the petitioner has not conveyed any property belonging to the defacto complainant in the settlement dated 30.10.2009, the complaint may be closed as a mistake of fact.

With the above observation, this Criminal Original Petition is closed. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

vsm

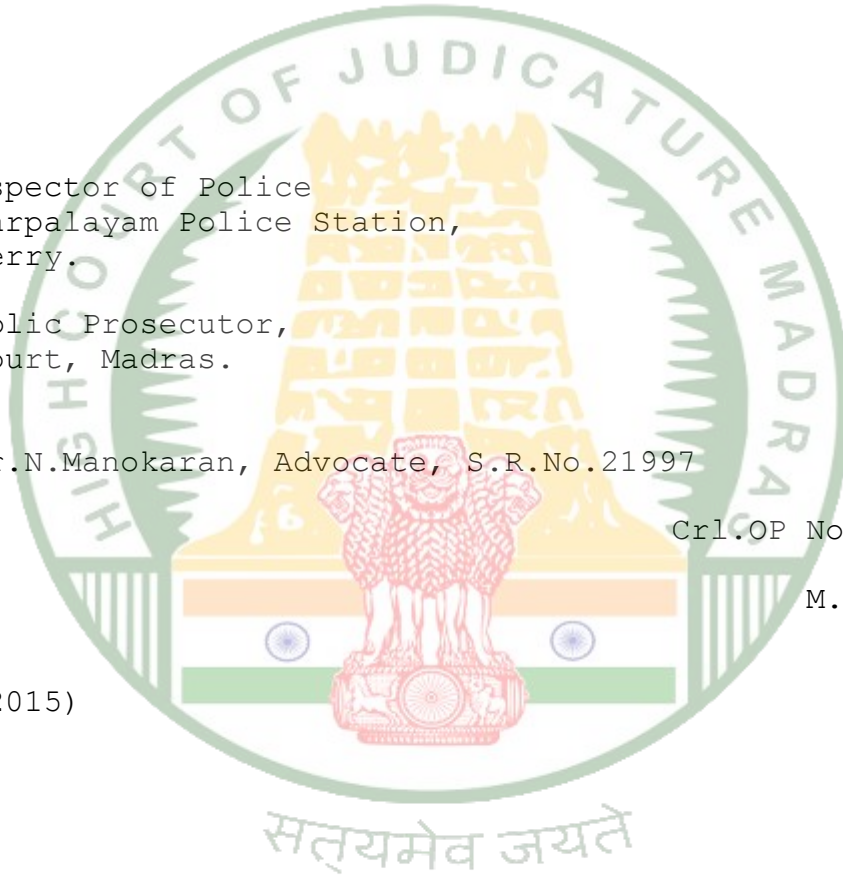
To

1. The Inspector of Police
Reddiarpalayam Police Station,
Puducherry.
2. The Public Prosecutor,
High Court, Madras.

+1cc to Mr.N.Manokaran, Advocate, S.R.No.21997

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KM(CO)
CA(15/05/2015)



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