

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 15.04.2015

CORAM

THE HONOURABLE MR.JUSTICE P.N.PRAKASH

CRL.O.P.No.1310 of 2015
and M.P.Nos.1 and 2 of 2015

1.Nehruji
2.Chandrakala
3.Sasikala
4.Premalatha
5.Nethaji

... Petitioners

Versus

1. State by the Inspector of Police,
Land Grabbing Cell,
XVIII Team, Central Crime Branch,
Egmore, Chennai-8.
[Crime No.104 of 2012]

2. Thirumurthy

.. Respondents

Criminal Original Petition filed under Section 482 of the Criminal Procedure Code praying to call for the records in C.C.No.45 of 2012 on the file of the learned Metropolitan Magistrate Court for trial of Land Grabbing Cases No.II, Chennai and quash the same.

For Petitioners : Mr.V.V.Sairam
For R1 : Mr.M.Mohamed Riyaz,
Government Advocate [Criminal Side]

सत्यमेव जयते

O R D E R

This Criminal Original Petition has been filed seeking to quash the proceedings in C.C.No.45 of 2012 pending on the file of the learned Metropolitan Magistrate Court for trial of Land Grabbing Cases No.II, Chennai.

2. Heard Mr.V.V.Sairam, learned counsel for the petitioners and Mr.M.Mohamed Riyaz, Government Advocate [Criminal Side] appearing for the 1st respondent.

3. It is seen that the property in question belonged to one Ammani Ammal, who had endowed the property to Tiruttani Murugan Temple for the purpose of performing some poojas in Tiruttani Murugan Temple in respect of which, there is a culvert in the Temple. The defacto complainant in this case is the Managing Trustee of the Trust who manages the property that had been endowed by Ammani Ammal for the aforesaid Temple.

4. While so, it is alleged by the defacto complainant that the petitioners/accused Nos.2,3 and 4 herein had filed a suit in O.S.No.3494 of 2011 for partition, as if the said property is an ancestral property and they got a compromise decree on 25.04.2011 and on the strength of which, they had alienated the property by document No.722 of 2011 on 03.06.2011. Thus, there are sufficient materials incriminating the accused in the conspiracy to encumber and alienate the property which does not belong to them. Therefore, it is not a fit case, jurisdiction under Section 482 Cr.P.C could be invoked for quashing the prosecution. Hence, the petition is liable to be dismissed.

5. The learned counsel for the petitioners submits that petitioners 2, 3 and 4/accused Nos.2,3, and 4 are ladies and their presence may be dispensed with.

6. Accepting the submission of the learned counsel for the petitioners, this Court directs the petitioners Nos.2,3 and 4/accused Nos.2,3 and 4 to appear before the Trial Court for the purpose of getting the papers under Section 207 Cr.P.C and thereafter, they should appear to answer for the charges framed against them and also questioning under Section 313 Cr.P.C on the day of judgment.

7. During the course of trial, if an application under Section 317 Cr.P.C is filed on behalf of the petitioners No.2,3 and 4, the Trial Court shall consider the same liberally, on condition that the said petitioners/accused should not protract the trial on the ground that they are absent and that their counsel should cross-examine the witnesses produced by the prosecution. Similarly, the petitioners/accused shall not challenge their identity, taking advantage of the order passed by this Court. If they protract the trial, the Trial Court is directed to insist the presence of the petitioner Nos.2,3 and 4/accused Nos.2,3 and 4 before this Court, in the interest of justice. All contentions raised in this quash petition are left open for the accused to raise before the Trial Court.

8. In the result, this Criminal Original Petition is dismissed. Consequently, connected Miscellaneous Petitions are also dismissed.

jrl/gya

s/d-
Assistant Registrar(CS-III)

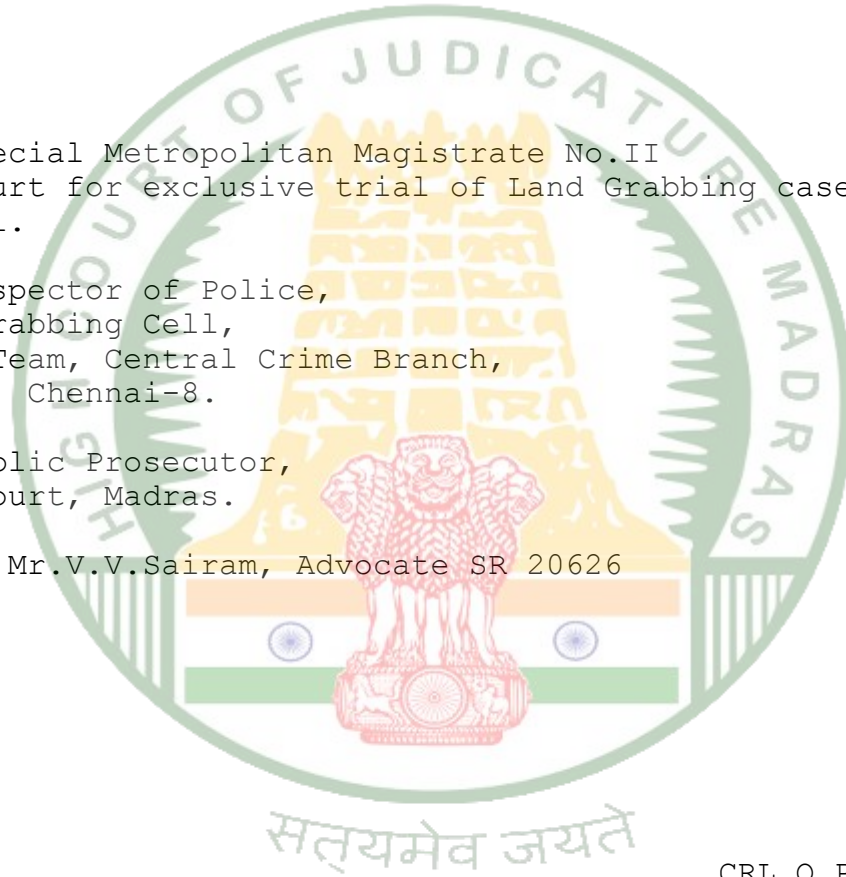
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Sub-Assistant Registrar

To

1. The Special Metropolitan Magistrate No.II
Spl.Court for exclusive trial of Land Grabbing cases,
Chennai.
 2. The Inspector of Police,
Land Grabbing Cell,
XVIII Team, Central Crime Branch,
Egmore, Chennai-8.
 3. The Public Prosecutor,
High Court, Madras.
- + 1 cc to Mr.V.V.Sairam, Advocate SR 20626

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