

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 12.06.2015
DELIVERED ON : 18.06.2015

CORAM

THE HONOURABLE MR.JUSTICE P.N.PRAKASH

Cr1.OP No.8840 of 2014
and M.P.No.1 of 2014
and M.P.No.1 of 2015

Suseela ... Petitioner/Accused-9

Vs

1.State rep by
The Inspector of Police
District Crime Branch
Erode.

2.Pachiammal ... Respondents/Complainant
& Defacto Complainant

Prayer:- Criminal Original Petition filed under Section 482 Cr.P.C., to call for the records and quash the FIR in Cr.No.49 of 2013 on the file of the respondent police as far as the petitioner is concerned.

For Petitioner Mr.H.Rajasekar
For R1 Mr.C.Emalias,
Addl.Public Prosecutor
For R2 Mr.S.Jaya Kumar

ORDER

This petition has been filed to call for the records and quash the FIR in Cr.No.49 of 2013 on the file of the respondent police as far as the petitioner is concerned.

2. Heard the learned counsel for the petitioner, learned counsel appearing for the defacto complainant and the learned Additional Public Prosecutor appearing for the State.

3. On a complaint in CMP No.1863 of 2013 filed by Pachiammal [defacto complainant], the learned Chief Judicial Magistrate, Erode, ordered police investigation under Section 156(3) Cr.P.C., based on which the respondent police registered a case in Erode District Crime Branch Cr.No.49 of 2013 under Sections 120(b), 420, 463, 464, 465, 466, 467, 468 and 471 IPC against 9 accused including the petitioner herein.

4. The gravamen of the allegations in the complaint is, the defacto complainant's father Kailasa Mudaliar owned large properties and he had three wives. The defacto complainant is the daughter of Kailasa Mudaliar's first wife and one P.K.Nagaraj is the son of Kailasa Mudaliar's third wife. P.K.Nagaraj was married to one Usha and after getting divorce from her, he was allegedly living with Seethalakshmi [A1]. P.K.Nagaraj died under mysterious circumstances. Taking advantage of this, all the accused including the petitioner herein, created a bogus legal heirship certificate, as if they are the legal heirs of P.K.Nagaraj and based on that, transferred several properties of Kailasa Mudaliar into their names without any reference to the defacto complainant. The petitioner herein is one Suseela, who has been arrayed as 9th accused. At the relevant point of time, she was working as the Tahsildar, Erode and she in conspiracy with the other accused, has issued the bogus legal heirship certificate and has also helped the other accused to transfer the properties.

5. The learned counsel appearing for the petitioner [A9] submitted that, the petitioner was a public servant and in the course of her regular duties, she had issued a legal heirship after due verification by her subordinates, namely the Revenue Inspector and Village Administrative Officer and therefore, the present FIR against her is an abuse of process of law.

6. Police investigation discloses that, the application for legal heirship certificate has been made on 04.06.2013 and the same has been issued on the very next day, i.e. 05.06.2013 by the petitioner herein, which prima facie smells rat. The respondent police have filed a detailed counter, wherein they have stated that, immediately after registration of FIR, the petitioner moved for anticipatory bail and the same was also granted by this Court in CrI.O.P.No.5041 of 2014 and therefore, the petitioner need not fear any arrest by the police. After obtaining anticipatory bail, the petitioner has come forward to quash this FIR on the ground that, she had issued those certificates in the course of her regular duties. On account of the interim stay of investigation that was issued by this Court on 23.04.2014, the police were not able to proceed further with the investigation and this has enured to the advantage of the other accused also. In paragraph 8 of the counter filed by the police, it is stated as follows:

"8. I further submit that the accused [A-9]/respondent had issued legal heirship certificate in favour of the accused Seethalakshmi [A-1] and her family members without proper verification vide No.10930/2013 dated

5.6.2013. I humbly submit that on the representation of the defacto complainant Tmt.Pachiammal made to the Revenue Divisional Officer, Erode and after hearing both sides the said R.D.O. passed an order for cancelling the said legal heirship certificate issued by the Tahsildar [A-9] vide his order C.No.6586 dated 25.2.2014."

7. The Hon'ble Supreme Court in Bajanlal vs. State of Haryana, [AIR 1992 SC 604] has clearly laid down the parameters for quashing an FIR. In this case, prima facie, there appears to be an undue haste in the issuance of legal heirship certificate and only a thorough probe will unravel the truth.

In the result, this petition is devoid of merits and the same is dismissed. Consequently, interim stay granted by this Court in M.P.No.1 of 2014 is vacated and M.P.No.1 of 2015 stands allowed. The respondent police is directed to proceed with the investigation.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

gms

To

1.The Inspector of Police
District Crime Branch
Erode.

2. The Public Prosecutor
High Court, Madras.

+ 1 cc to Mr.S.Jayakumar, Advocate Sr.30016
+ 1 c to Mr.H. Rajasekar, Advocate SR.29858

Cr1.OP No.8840 of 2014

SR(CO)
EU 26.06.15