IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 27.11.2015

Delivered on : 18.12.2015

CORAM:

THE HONOURABLE MR.JUSTICE A.SELVAM

Crl.O.P.Nos.18416, 13356, 13357,
13358 and 13359 of 2015

Crl.O.P.No.18416 of 2015:-

1.N.Soundarajan
2.S.Chitra
3.C.Sundari
4.M.Ramani ... Petitioners/Accused

Crl.O.P.Nos.13356 to 13359/2015:-

P.Kuppusamy ...Petitioner in Crl.O.P.No.13356/2015 /Accused-5
M.T.Manickam ...Petitioner in Crl.O.P.No.13357/2015 /Accused-8
S.M.Omprakash ...Petitioner in Crl.O.P.No.13358/2015 /Accused-6
S.Venkatesan ...Petitioner in Crl.O.P.No.13359/2015 /Accused-7

vs.

1. State Rep. By
The Deputy Superintendent of
Police, Vigilance and Anti Corruption
Kanchipuram.

2. A.G.Gopal ... Respondents in all the above Crl.O.Ps.

Criminal Original Petition No.18416 of 2015 filed under Section 482 of the Code of Criminal Procedure, praying to call for the charge-sheet filed in Special Case No.6 of 2015 dated 27.02.2015, on the file of Chief Judicial Magistrate-cum-Special Judge, Kanchipuram and quash the same.

Criminal Original Petition Nos.13356 to 13359 of 2015 filed under Section 482 of the Code of Criminal Procedure, praying to call for the records pertaining to Charge Sheet No.1 of 2015 dated 27.02.2015 in Crime No.1/Ac/KPM on the file of Chief Judicial Magistrate/Special Judge at Chenglepet in Kancheepuram and to quash the Special Case No.6 of 2015 filed by the first respondent police.

For Petitioner in : Mr.S.Selvakumar

For Petitioners in Crl.OPs.13356
Crl.OP.18416/15 to 13359/15: Mr.C.Umashankar

For 1st respondent in all the above Crl.O.Ps. : Mr.P.Govindarajan, Additional Public Prosecutor

For 2nd respondent in all the above Crl.O.Ps : Mr.P.Karl Marx

COMMON ORDER

All these Criminal Original Petitions have been filed under Section 482 of the Code of Criminal Procedure, 1973, praying to quash the final report filed in Special Case No.6/2015, pending on the file of the Chief Judicial Magistrate/Special Judge, Kancheepuram.

2. The case of the prosecution is that the lands comprised in Survey Nos.231/2B and 307/5 are the absolute properties of one Nagappan by way of purchase on 24.03.1955 and he passed away on 14.02.1975, leaving behind him, his wife, two daughters and three sons. The wife of the 2nd respondent, by name Subbulakshmi has got a Power of Attorney deed on 01.06.1989 from one of the sons of the Nagappan and also from brother's son of the said Nagappan in respect of Survey Nos.230/1B. On 03.07.1990, she got another Power of Attorney deed from other legal heirs of the said Nagappan for Survey Nos.230/1L, 307/4L and 307/5. On 05.02.2007, a cancellation deed has come into existence in respect of Power of Attorney dated 03.07.1990. The wife of Nagappan, by name Lakshmi has passed away on 02.03.2007. The Power of Attorney holder viz., Subbulakshmi has executed a sale deed in favour of her husband on 16.04.2007. By virtue of the same, he has become absolute owner of Survey Nos.231/2B and 307/5. In the mean while, one Ramani, daughter-in-law of

Nagappan, got release deeds from all legal heirs on 23.09.2010 and 22.11.2010 and subsequently approached the Revenue Officials to change patta in her name. The defacto complainant has given representations, but the Revenue Officials, with the connivance of private individuals, without giving opportunity, changed patta and on the basis of the complaint given by defacto complainant, investigation has been launched and subsequently filed a final report under Section 120(B) of the Indian Penal Code read with Section 13(2) read with 13(1)(d) of the Prevention of Corruption Act, 1988.

3. The petitioners found in Criminal Original Petition No.1186 of 2015 have been arrayed as Accused Nos.1 to 4 and they are the subsequent purchasers of the disputed Survey Numbers. The petitioner found in Crl.O.P.No.13359 of 2015 is a retired Village Administrative Officer. The petitioner found in Crl.O.P.No.13356 of 2015 has been arrayed as 5th accused and he is a retired Village Administrative Officer. The petitioner found in Crl.O.P.No.13357/2015 has been arrayed as 8th accused and he is a Surveyor. The petitioner found in Crl.O.P.No.13358/2015 has been arrayed as 6th accused as well as the petitioner found in Crl.O.P.No.13359/2015 has been arrayed as 7th accused and they are the retired Tahsildars served during the relevant period.

4. The learned counsel appearing for the petitioners have uniformly contended that the disputed properties are originally belonged to Nagappan and he purchased the same on 24.03.1955 from one Velan and others and he passed away on 14.02.1975, leaving behind him, his wife, two daughters and three sons. On 01.06.1989, the wife of defacto complainant, by name Subbulakshmi has got a Power of Attorney deed from one of the sons of Nagappan as well as his brother's son. On 03.07.1990, the said Subbulakshmi has got another Power of Attorney from other legal heirs of deceased Nagappan and subsequently, a cancellation deed has come into existence on 05.02.2007 and thereafter, the daughter-in-law of Nagappan, by name Ramani, has got release deeds from all legal heirs of the said Nagappan and subsequently made arrangements to change patta in her name and under the said circumstances, the Revenue Officials have changed patta and in pursuance of the same, the accused 1 to 4, have purchased the properties in question and since the Government Officials have acted in accordance with records and since the accused 1 to 4 have purchased the properties in question on the basis of valid documents, they have been falsely implicated in

Special Case No.6 of 2015 and under the said circumstances, these petitions have been filed for getting the relief sought therein.

5. The learned Additional Public Prosecutor appearing for the 1st respondent has simply reiterated the case of the prosecution.

6. The learned counsel appearing for the 2nd respondent/defacto complainant, has laboriously contended that his wife, by name Subbulakshmi has got two Power Deeds on 01.06.1989 and 03.07.1990 and subsequently, the cancellation deed has come into existence on 05.02.2007 only in respect of some survey numbers and no cancellation has been made in respect of all the survey numbers mentioned in the power deeds and subsequently on 16.04.2007, she has executed sale deed in favour of the defacto complainant and in pursuance of the same, patta has also been changed in his name, but the Revenue Officials with the connivance of accused Nos.1 to 4, have changed patta in the name of Ramani. Since all the accused have hatched conspiracy, the complaint in question has been given and the 1st respondent, after conducting a detailed investigation, has rightly filed a final report and the same has been taken on file under Section 120(B) of the Indian Penal Code read with Section 13(2) read with 13(1)(d) of the Prevention of Corruption Act, 1988 and since prima facie evidence are available so as to proceed further against all the accused, the relief sought in the petitions cannot be granted and therefore, all the petitions are liable to be dismissed.

7. In fact, on the side of the 2nd respondent, a detailed counter has been filed and in order to avoid turgidity, the averments made in the counter need not be mentioned herein and further, the learned counsel appearing for the 2nd respondent has advanced his elaborate arguments only on the basis of materials found in the counter.

8. On the basis of averments made in the petitions, the court has to analyse as to whether, the final report in question is liable to be quashed.

9. The consistent case of the prosecution is that the said Ramani applied for mutation and she enclosed only two release deeds, but the Village Administrative Officer, Mannivakkam Village, recommended mutation in patta without conducting

enquiry, though the title of the property stood in the name of the defacto complainant. Further, he knows very well that the defacto complainant has already given an application before dealing with application of Ramani. The further case of the prosecution is that the property comprised in Survey No.231/2B stands in the name of one Murugesan and in the Updating Registry Scheme, Patta has been issued in his name and he has given a Power of Attorney Deed in the year 1989 in the name of wife of the defacto complainant and the same has not been revoked and subsequently, she sold the said survey number in favour of the defacto complainant by virtue of the sale deed dated 16.04.2007 and in pursuance of the same, he has obtained patta and in respect of the same, the release deed has come into existence in favour of Ramani in the year 2010; after transfer of patta has taken place in the name of defacto complainant as early as on 16.04.2007 and the said Ramani has requested the Revenue Officials to change patta granted in favour of the defacto complainant. The concerned Revenue Inspector, without making specific recommendation, has simply forwarded to the Tahsildar Office and without giving opportunity to the patta holder viz., the defacto complainant, the Revenue Officials have made such sub- divisions.

10. It is seen from the records that by virtue of power deeds executed in favour of wife of the defacto complainant, he purchased the mentioned properties supra and subsequently changed patta in his name. But the said Ramani, after getting release deeds subsequently from some of the legal heirs of Nagappan, has created all problems including change of patta in her name. The Revenue Officials, without conducting proper enquiry and also without considering the fact that the name of the defacto complainant has already been included in patta in respect of disputed survey numbers, has erroneously made sub-divisions and also granted patta.

11. The specific allegation made on the side of the prosecution is that all the accused have hatched a conspiracy so as to make sub-divisions and also for changing the patta. Since all the accused have faced a charge under Section 120(B) of the Indian Penal Code, the same can be decided only after getting evidence. At this stage, it is highly inexorable to find out that the petitioners/accused have had no connection whatsoever with the offences. Further, on the side of the prosecution, relevant documents have been filed so as to proceed further against the petitioners/accused.

12. To put it in short, replete prima facie evidence is available on the side of the prosecution. Under the said circumstances, it is not possible to quash the final report filed in Special Case No.6 of 2015, pending on the file of Chief Judicial Magistrate-cum-Special Judge, Chengalpattu at Kancheepuram and therefore, all the petitions are liable to be dismissed.

In fine, these Criminal Original Petitions are dismissed.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

nvsri

To

1. The Deputy Superintendent of Police
   Vigilance and Anti corruption
   Kanchipuram

2. The Chief Judicial Magistrate-cum-Special Judge,
   Chengalpattu, Kancheepuram District

3. The Public Prosecutor,
   High Court, Madras.

+1cc to Mr.S.Selvakumar, Advocate, S.R.No.69365
+4cc's to Mr.C.Uma Shankar, Advocate, S.R.No.68335
+5cc's to Mr.P.Karl Marx, Advocate, S.R.Nos.68220, 68222 to 68225
+1cc to the Public Prosecutor, S.R.No.68612

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EV(CO)
CA(07/01/2016)