

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 04.06.2015

DELIVERED ON : 10.06.2015

CORAM

THE HONOURABLE MR.JUSTICE P.N.PRAKASH

Cr1.OP No.23762 of 2014
and M.P.Nos.1 and 2 of 2014

1. Mani
2. Rajeswari
3. Kamuvel

..Petitioners

Vs

1.The Inspector of Police
District Crime Branch
Anti Land Grabbing Special Cell
Cuddalore.

2.K.Murugesan

.. Respondents

Prayer:- Criminal Original Petition filed under Section 482 Cr.P.C., to call for the records in Crime No.11/2013 on the file of the 1st respondent police and quash the same.

For Petitioners : Mr.N.Suresh

For R1 : Mr.C.Emalias

Additional Public Prosecutor

For R2 : P.V.Balasubramanian

ORDER

This petition has been filed by the accused to quash the FIR in Cr.No.11 of 2013 on the file of the first respondent.

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

3. The disputed property in question is 0.18 cents of land in S.No.179/9 in Arisiperiyanguppam Village. According to the defacto complainant, the disputed land forms part of a total extent of 1.50 acres in S.No.179/9 which belong to one Sambandam, who sold it on 26.10.1988 to Veerasamy, from whom the defacto complainant purchased on 24.08.1998. According to the defacto complainant, there was an error in the Schedule of the sale deed, inasmuch as the vendor had failed to mention specifically about 0.18 cents in S.No.179/9, on coming to know of which the first accused executed a settlement deed dated 02.08.2004 in favour of his wife, the second accused, as if the disputed land is an ancestral property. On the strength of the settlement deed, the second accused entered into a sale agreement in respect of the disputed property with the third accused, who is her son-in-law, on 23.02.2007, and registered the

agreement in the Office of the Sub Registrar. Thereafter, A3 filed a suit in O.S.No.116 of 2007 for specific performance and A2 remained exparte and exparte decree was passed on 08.09.2008 for executing the sale deed in favour of A3. On the strength of the exparte decree, the sale deed was executed in respect of the disputed property in favour of A3.

4. The learned counsel for the petitioner submits that an entirely civil transaction has been given a criminal colour, inasmuch as there is a serious dispute with regard to the title of the property which can be decided only in a civil suit and therefore, the FIR is an abuse of process of law.

5. Per contra, the learned counsel for the de facto complainant submitted that there is no dispute with regard to his ownership of the property and A1, A2 and A3 who belong to the same family had devised a very clever plan for usurping the property.

6. The learned counsel for the petitioner/accused relied upon the judgment of the Supreme Court in Mohammed Ibrahim and others vs. State of Bihar and another [2009(8) SCC 751] to drive home the point that, an offence of cheating is maintainable in the facts and circumstances of the case. I have no quarrel with the proposition laid down in the said judgment. The facts in this case are entirely different, inasmuch as A1 has executed a settlement deed in favour of his wife A2, as if the property is the ancestral property and A2 has got a sale agreement registered in favour of her son-in-law [A3]. Thereafter, A3 filed a suit for specific performance in which A2 remained ex parte and the sale deed was executed in favour of A3, via execution proceedings. Thus, A1 to A3 have carefully conspired to create encumbrance in the property of the de facto complainant and thereby cheat him.

7. In the teeth of such serious allegations, the FIR cannot be quashed and full fledged investigation is essential. The Hon'ble Supreme Court in Bajanlal vs. State of Haryana, [AIR 1992 SC 604] laid down the parameters for quashing an FIR and the facts in this case do not fall within the parameters laid down therein.

In the result, this petition is devoid of merits and the same is dismissed. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar

True Copy

Sub Assistant Registrar

To

1.The Inspector of Police
District Crime Branch
Anti Land Grabbing Special Cell
Cuddalore.

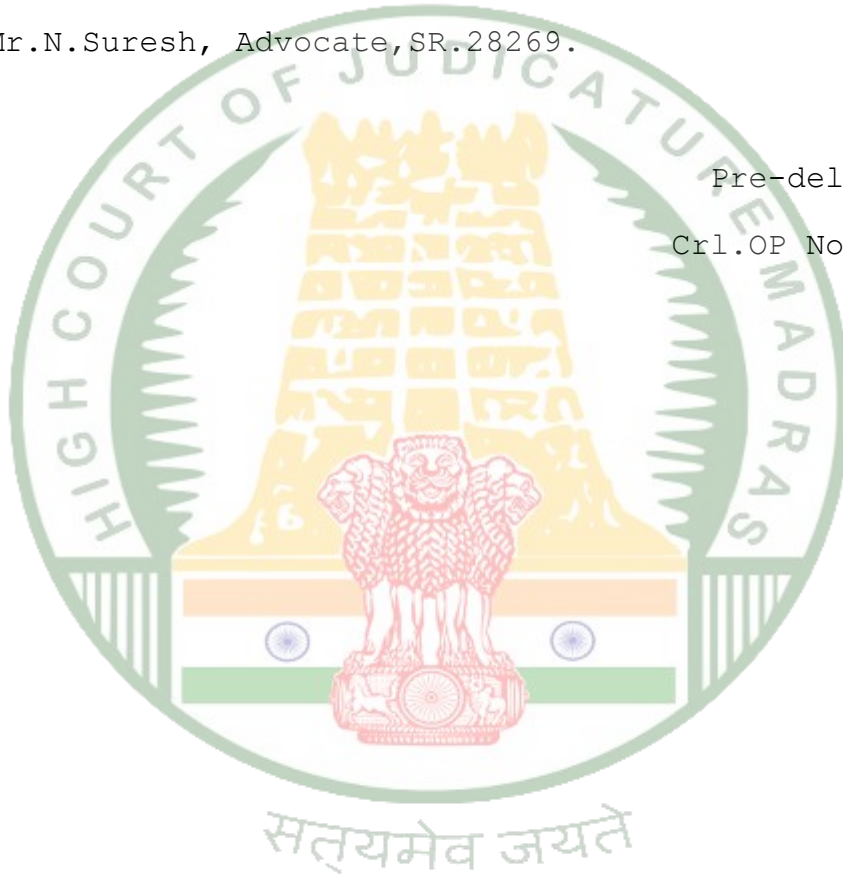
2.The Public Prosecutor,
High Court, Madras.

+1 cc to Mr.BFS Legal Associates,SR.27889.

+1 cc to Mr.N.Suresh, Advocate,SR.28269.

Jp(co)
krd 25/6

Pre-delivery order in
Crl.OP No.23762 of 2014



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