

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 9-10-2015

CORAM:

THE HON'BLE MR. JUSTICE P.N.PRAKASH

Crl.O.P.No.22160 of 2015 & M.P.No.1 of 2015

Crl.O.P.No.28770 of 2013 & M.P.No.1 of 2013

Crl.O.P.No.21895 of 2015

Crl.O.P.No.22160 of 2015

1. Krishnan
2. K. Latha
3. K. Uma

... Petitioners

Vs.

1. The Inspector of Police,
Central Crime Branch,
Land Grabbing Cell, Team No.1,
Egmore, Chennai - 600 008
(Cr.No.174 of 2011)

2. Henna Devayirakkam

... Respondents

Criminal Original Petition filed under Section 482 of Code of Criminal Procedure with a prayer to call for the records of the FIR in Crime No.174 of 2011 on the file of the Inspector of Police, Central Crime Branch, Land Grabbing Cell, Team No.1, Egmore, Chennai and quash the same in view of the proceedings on the the petitioners as accused 4 to 6.

Crl.O.P.No.21895 of 2015
Henna Devairakkam

... Petitioner

Vs.

The State rep.by its Inspector of Police,
Central Crime Branch-I,
Chennai.

.. Respondent

Criminal Original Petition filed under Section 482 of Code of Criminal Procedure with a prayer to direct the respondent Police to enquire the matter and file a final report in the FIR bearing Crime No.174 of 2011 pending on the file of the CCB-I, Chennai within time frame fixed by this Court.

Crl.O.P.No.28770 of 2013

S. Vijaya

.. Petitioner

Vs.

1. The Inspector of Police,
Central Crime Branch,
Land Grabbing Cell, Team No.1,
Egmore, Chennai - 600 008
(Cr.No.174 of 2011)

2. Henna Devayirakkam

.. Respondents

Criminal Original Petition filed under Section 482 of Code of Criminal Procedure with a prayer to call for the records and quash the FIR in Crime No.174 of 2011 pending on the file of the Central Crime Branch, Chennai against the petitioner.

For Petitioner in Crl.O.P.22160/2015: Mr.R.Balaguruswamy
for M/s.Jayasudha Associates

For Petitioner in Crl.O.P.21895/2015: Mr.G.Jehanathan

For Petitioner in Crl.O.P.28770/2015: Mr.R.Muniyapparaj

For Respondent/State in all Petitions: Mr.C.Emalias,
Additional Public Prosecutor

Reserved on	Pronounced on
6-10-2015	9-10-2015

COMMON ORDER

It is the case of the defacto complainant that on 20.12.1992 she purchased the Plot No.37 measuring 2992 1/2 sq.ft from one Ananthalakshmi Ammal and in the year 2010 she was shocked to find that the accused herein had created bogus documents, and

had created encumbrance on the said property of the defacto complainant. Based on the complaint, the respondent/Police registered a case in Cr.No.174 of 2011 under Sections 468 r/w 471, 420 and 120(b) of IPC and investigation is in progress.

2. According to the learned Counsel for the accused there are two suits viz., O.S.No.572 of 1997 and O.S.No.94 of 1989 pending and the very title of the property of Ananthalakshmi Ammal is under dispute, and therefore the defacto complainant has no proper title to the property.

3. The respondent/Police have filed a detailed Status report, wherein they have stated as follows:

"2. I submit that the defacto complainant/the petitioner herein preferred a complaint dated 29.7.2011 by registered post to the Commissioner of Police, Suburban, Chennai-16 and the same was forwarded through proper channel vide No.RI(4)2635/049999/11, dated 11.08.2011 to the respondent police. The gist of the case is as follows:

The defacto complainant alleged that she purchased a property located at Asthinapuram Gramam vide Survey No.21/2 A-1, Plot No.37 to an extent of 2992 1/2 sq.ft., as a vacant land vide document No.622/1992 from A-1's mother viz., Ananthalakshmi Ammal; subsequently, she mortgaged the said document in Tamilnadu Mercantile Bank and obtained loan for a sum of Rs.1,20,000/- in the year 1993 and with family she went to her native place at Tirunielveli; whileso, after demise of A-1's mother on 21.7.1992, A-1 illegally fabricated forged sale document for the above said property and sold to A-2 & A-3 given registered General Power of Attorney vide doc No.204/1999 to A-4 and in the said capacity, A-4 sold the said property to her daughters A-5 & A-6 vide registered sale deed document Nos.2936/2008 & 2937/2008. Subsequently, the defacto complainant after demise of her husband in the year 2010, she went to visit the said property, to her shock and surprise to note that, the said property is in possession and enjoyment of A-4 to A-6 by constructing a House and thereafter she obtained encumbrance certificate wherein she knows the said property was illegally sold by A-1 and presently possessed and enjoyed by A-4 to A-6. Hence she preferred this complaint to take necessary action against A-1 to A-6 for the offence committed by them.

3. I submit that, based on the above complaint a

case was registered by Tr.Bharanidharan, Sub-Inspector of Police, CCB, Chennai Suburban in Cr.No.174/2011 under Section 468 r/w 471, 420, 120(b) IPC on 24.08.2011 at 11.30 hours against A-1 to A-6 namely, (i) Vijaya (A-1); (ii) Rameeja Bi (A-2); (iii) Abdul Ajeez (A-3); (iv) Krishnan (A-4); (v) Tmt.Latha (A-5); & (vi) Uma (A-6) and taken up the case for investigation.

4. I submit that, during the course of investigation, the then Sub Inspector of Police examined the defacto complainant and recorded her statement, wherein she corroborated the same version of the complaint. Also he examined Tr.N.Sridhar Rajesh, Sub-Registrar, Pallavaram and recorded his statement and also collected some of the vital copy of documents relevant to the said property from him.

5. I submit that, Tr.Ravi, Inspector of Police after taken a charge on 17.08.2012 and on careful scrutiny and on perusal of records with regard to this case, on 15.11.2012 arrested A-1 at her residence at Saidapet at about 07.00 hours in the presence of witnesses Tr.Manikandan & Tr.Umeshraja and recorded her confession statement. Subsequently, she produced before the learned Judicial Magistrate, Alandur and she confined in Central Prison, Puzhal on the same day.

6. I submit that, apprehending arrest, A-4, A-5 & A-6, A-2 & A-3 obtained anticipatory bail vide CrI.O.P.Nos.31276/2012, 28920/12 and 23382/2015 dated 29.01.2013, 10.12.2012 and 16.09.2015 respectively.

7. I submit that after taken this case for investigation by me, I have examined the following witnesses;

- (i) Tr.J.Shanmugam, S.R.O., Pallavaram
- (ii) Tr.P.Paulraj, Police Photographer, Vepery, Chennai
- (iii) Tr.N.Munusamy; (iv) Tr.K.Mohammed Mohideen;

attested witnesses in forged sale deed
doc.No.1962/1993;

- (v) Tr.Amardeen, witness signed in forged GPA vide
doc.No.204/1999

- (vi) Tr.K.Narayanasamy, neighbour
- (vii) Tr.K.Thamodharan, Spl.Tahsildar, Pallavaram.

All the witnesses statements were recorded. Also collected relevant documents from the concerned authorities.

8. I submit that, I have taken sample finger print of A-1/Tmt.Vijaya and the same was sent along with photograph of A-1's finger print in sale deed doc.No.1962/1993 to Single Digit Finger Print Bureau, St.Thomas Mount, for comparison on 21.09.2015 through proper channel in accordance with law.

9. I submit that, I have given requisition to Punjab National Bank, Chennai with regard to provide details about the equitable mortgage over the disputed property. Yet to be received reply from them.

10. I submit that, in order to complete the investigation, I have to take following efforts:

- (i) Awaiting comparison report from Single Digit Finger Print Bureau, Chennai-16.
- (ii) Awaiting reply from Punjab National Bank.

I will be able to un-earth real facts of the case, only after completion of all the above aspects within 3 months. Hence the case is still under investigation."

4. From the above it is evident that the Police investigation is at a very crucial stage and the facts obtaining in the case does not pass muster of the law laid down by the Hon'ble Supreme Court in State of Haryana v. Bhajan Lal, reported in 1992 Supp (1) SCC 335 for quashing the FIR.

5. The learned Counsel appearing for the defacto complainant submitted that Vijaya (petitioner in CrI.O.P.No.28770 of 2013) is not the adopted daughter of Ananthalakshmi Ammal, and that she has fabricated the records as if she is the adopted daughter of Ananthalakshmi Ammal, in order to usurp the property of the defacto complainant.

6. Be that as it may, since the police investigation is at a crucial stage, and that, there are sufficient materials for conducting full-fledged enquiry, this is not the fit case to quash the FIR.

7. In the result,

(a) CrI.O.P.Nos.22160 of 2015 and 28770 of 2013 are devoid of merits and consequently both the petitions stand dismissed. Connected miscellaneous petitions are also dismissed.

(b) CrI.O.P.No.21895 of 2015 is closed with a direction to the respondent/Police to expeditiously conduct investigation and file final report, as early as possible.

-Sd/-
Assistant Registrar

//True copy//

Sub Assistant Registrar

vr

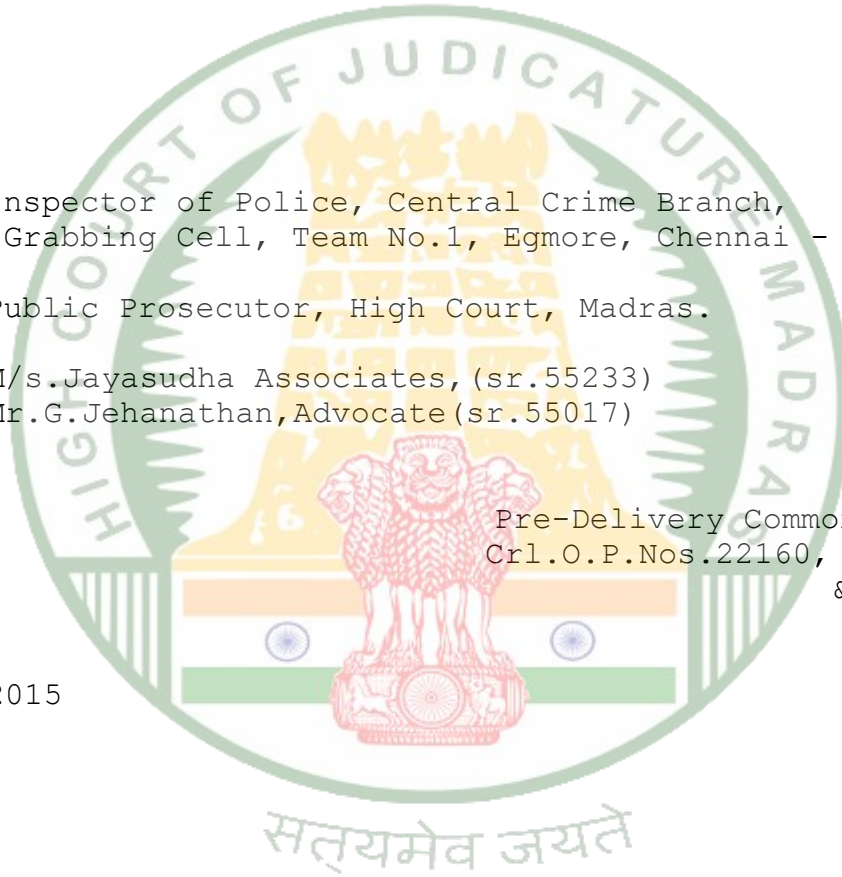
To

1. The Inspector of Police, Central Crime Branch,
Land Grabbing Cell, Team No.1, Egmore, Chennai - 600 008.
2. The Public Prosecutor, High Court, Madras.

+1 cc to M/s.Jayasudha Associates,(sr.55233)
+1 cc to Mr.G.Jehanathan,Advocate(sr.55017)

Pre-Delivery Common Order in
CrI.O.P.Nos.22160, 21895/2015
& 28770/2013

LRS(co)
cp 19/10/2015



WEB COPY