

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.09.2015

CORAM

THE HONOURABLE MR.JUSTICE P.N.PRAKASH

Cr1.O.P.No.22383 of 2015
and M.P.No.1 of 2015

K.Thaimzhmalar Selvam

.. Petitioner

Vs

1.R.Vinoth

2.The Inspector of Police
Anti Land Grabbing Special Cell
Villupuram District.

.. Respondents

Prayer:- Criminal Original Petition filed under Section 482 Cr.P.C. to call for the records of the Cr.No.10 of 2015 on the file of the Inspector of Police, Anti-Land Grabbing Special Cell, Villupuram District and quash the same.

For Petitioner : Mr.T.R.Udaya Kumar

For R2 : Mr.C.Emalias, Addl.Public Prosecutor

ORDER

This petition has been filed to call for the records of the Cr.No.10 of 2015 on the file of the Inspector of Police, Anti-Land Grabbing Special Cell, Villupuram District and quash the same.

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

3. It is the case of the defacto complainant that, one Sivagangai had created encumbrance on her property by executing a sale deed in favour of K.Thamizhmalar Selvam [petitioner herein] on 27.06.2013. That apart, the said Sivagangai had also registered a settlement deed in respect of another portion of the defacto complainant's property in favour of her husband.

4. Learned counsel for the petitioner brought to the notice of this Court a suit in O.S.No.264 of 2014 on the file of the District Munsif Court, Tindivanam, filed by the defacto complainant and his sister Kavitha against the said Sivagangai and the petitioner, wherein, a relief of declaration in respect of the land and also, the relief of setting aside of the sale deed dated 27.06.2013 and the

settlement deed dated 23.08.2013 have been sought. Hence, the learned counsel submitted that when the defacto complainant and his sister themselves have filed a civil suit for declaration, the police complaint is an abuse of process of law.

5. It is seen that the petitioner is now on anticipatory bail and therefore, there is no imminent possibility of the petitioner suffering arrest. Even if a criminal prosecution is launched, it is only the civil Court which can declare a document as null and void and therefore, just because the defacto complainant had filed a civil Suit in O.S.No.264 of 2014, it cannot be stated that the criminal prosecution should be quashed. However, the respondent police is directed to look into all these aspects and during the course of investigation, if it is found that the dispute is essentially civil in nature, then, it is needless to say that the petitioner should be deleted from the Final Report, if any.

6. With the above direction, this petition is closed. Consequently, connected miscellaneous petition is also closed.

gms

s/d-
Assistant Registrar(J)

True Copy

Sub-Assistant Registrar

To

1.The Inspector of Police
Anti Land Grabbing Special Cell
Villupuram District.

2.The District Munsif,
Tindivanam.

3.The Public Prosecutor,
High Court, Madras.

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