

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.02.2015

CORAM:

THE HON'BLE MR.JUSTICE R.S.RAMANATHAN

Crl.O.P.No.2563 of 2015

And

M.P.No.1 of 2015

D.Madhavan

... Petitioner

Vs.

1. State rep by
Inspector of Police
Gudavancheri Police Station,
Gudavancheri.

2. G.Tamil Selvi

... Respondents

Prayer :

Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure praying to call for the records relating to Crime No.1131/2014 u/s 467, 468, 471, r/w S.34 of I.P.C. dated 27.11.2014 passed by the Inspector of Police, Gudavancheri Police Station, Gudavancheri and quash the same.

For Petitioner : M/s.M.Gnanasekar

For Respondents : Mr.M.Maharaja for R1
Additional Public Prosecutor

ORDER

This petition is filed seeking to quash the F.I.R. in crime no.1131 of 2014 on the file of the first respondent police.

2.It is submitted by the learned counsel for the petitioner that the petitioner's vendors predecessors are in title, purchased 15 cents in S.No.137/1 and 45 cents in S.No.137/2 in Kattankolathur Union, Kannivakkam Village under registered sale deed dated 21.01.1974 in document no.194 of 1975. The said predecessors are in title namely Ponnammal also purchased 10 cents in S.No.137/1 in the same Kannivakkam village under registered sale deed dated 25.07.1977 from Subramani Naicker and therefore the petitioner's vendor's predecessor are in title. Ponnammal became owner of 25 cents in S.No.137/1, Kannivakkam Village. He further submitted S.No.137/1 is having total extent of 29 acres 89 cents and out of that the said

Ponnammal purchased 25 cents under the aforesaid two documents and after the death of said Ponnammal, her legal heirs sold 25 cents in S.No.137/1 out of the total extent of 24.89 acres and 45 cents in S.No.137/2 in favour of the petitioner under registered sale deed 16.02.2005. The second respondent gave the complaint stated that her father-in-law was the owner of 35 cents of property in S.No.137/1 and he sold 10 cents to Ponnammal under the sale deed dated 25.07.1977 and was in possession of the remaining 25 cents and the legal heirs of Ponnammal sold 25 cents of property in S.No.137/1 to the petitioner and therefore, the petitioner and others have committed offence under Sections 467, 468, 471 read with Section 34 of I.P.C. and a case was registered in Crime No.1131 of 2014. He therefore, submitted that having regard to the total extent of property available in S.No.137/1 and also having regard to the sale deed dated 21.01.1974 and 25.07.1977, it cannot be contended that the petitioner has committed offence. He also submitted that the petitioner is a purchaser and the petitioner has not purchased any of the property belonging to the defacto complainant.

3.Heard the learned Additional Public Prosecutor appearing for the respondent.

4.The learned Additional Public Prosecutor submitted that enquiry is pending and after conducting enquiry final report will be filed.

5.Though, the defacto complainant was impleaded as the second respondent, having regarding to the document filed, in my opinion, there is no necessary to serve the second respondent. As stated supra S.No.137/1 is having total extent of 24.89 acres and under document dated 21.01.1974, 15 cents of property out of total extent of 24.89 acres was sold to Ponnammal by Kamalammal, Kalpagam Rajagopal, Vijayalakshmi Santhanam. Thereafter, under document dated 25.07.1977, the said Ponnammal purchased another 10 cents of property from Subramania Naicker, father-in-law of the second respondent herein in S.No.137/1. Even in the sale deed dated 25.07.1977, it is clearly mentioned that S.No.137/1 is having extent of 24.89 acres and out of that 10 cents was sold. It is admitted by the second respondent in the complaint that their father-in-law Subramania Naicker was the owner of 35 cents of property in S.No.137/1 and he only sold 10 cents of property to Ponnammal. As stated supra, Ponnammal had already purchased 15 cents of property in S.No.137/1 under sale deed of the year 1974. Thus Ponnammal became owner of 25 cents of property in S.No.137/1 out of the total extent of 24.89 acres and therefore, it cannot be stated that the vendors of the petitioner sold excess property to the petitioner. Further, the petitioner is a purchaser and he purchased property on the basis of the documents referred to above. Hence, no offence can be made out against the petitioner.

6.In the result, this criminal original petition is allowed and the F.I.R. in Crime No.1131 of 2014 on the file of the first respondent as against the petitioner is quashed. Consequently, the connected miscellaneous petition is closed.

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-s/d-

Assistant Registrar(CS-III)

Dt:12/2/2015

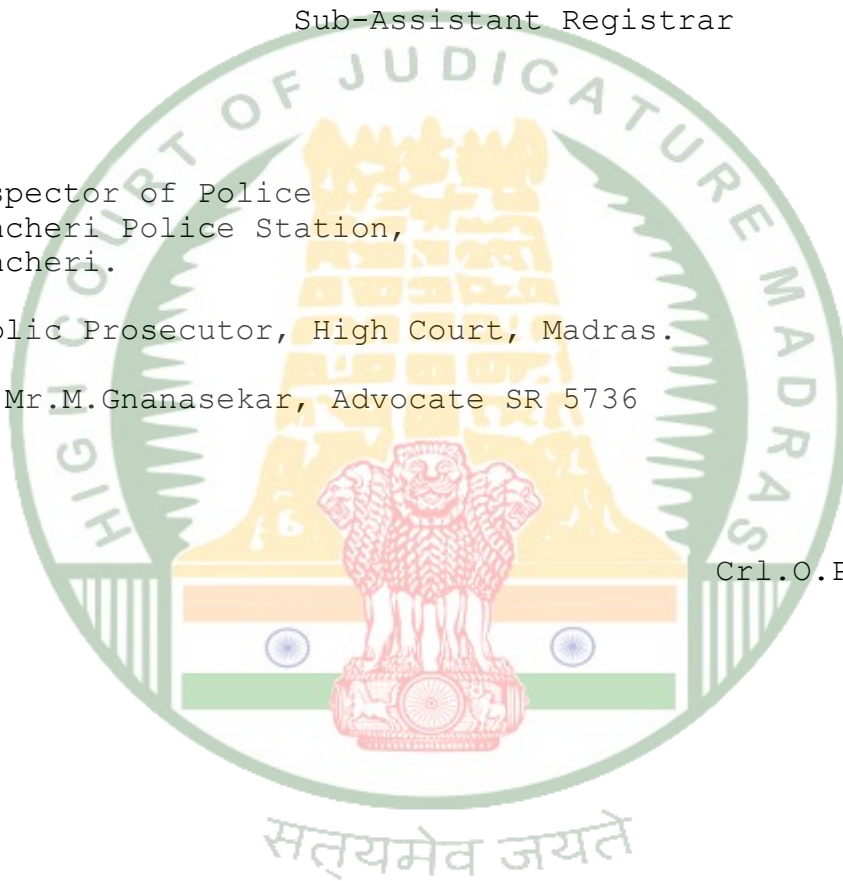
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Sub-Assistant Registrar

To

1. The Inspector of Police
Gudavancheri Police Station,
Gudavancheri.
 2. The Public Prosecutor, High Court, Madras.
- + 1 cc to Mr.M.Gnanasekar, Advocate SR 5736

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