



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 24.07.2015

CORAM:

THE HONOURABLE MR. JUSTICE M.M. SUNDRESH

Crl.O.P. (MD) No.21894 of 2014

and

M.P. (MD) .No.1 of 2014

R.Selvabala Murugan

... Petitioner

Vs.

1. State rep by
The Inspector of Police,
Anti-Land Grabbing Cell,
Karur,
Crime No.18 of 2014.

2. R.Sampoornam

... Respondents

Prayer : Criminal Original Petition is filed under Section 482 of the Code of Criminal Procedure, praying to call for the records in Crime No.18 of 2014 on the file of the Inspector of Police, Anti-land Grabbing Cell, Karur and quash the same.

For Petitioner : Mr.K.P.S.Palanivelrajan

For Respondent-1 : Mr.K.Anbarasan
Government Advocate (Crl. Side)

For Respondent-2 : Mr.P.Muthusamy

O R D E R

The petitioner who was working as Sub-Registrar in charge at the relevant point of time, when the document has been executed by A1 in favour of one Gopalakrishnan on 25.03.2013. Alleging that the said document has been executed with the connivance of the petitioner, a complaint has been registered in Crime No.18/14 for the alleged offences under Section 120(b), 420, 465, 506(i) of IPC. Challenging the same, the petitioner/A-18 has come forward with this petition.

2. Heard the learned counsel for the petitioner, the learned counsel appearing for the second respondent and the learned Government Advocate (Crl. Side) appearing for the first respondent and perused the materials available on record.

3. The learned counsel for the petitioner submitted that the complaint discloses only a civil dispute. Based on the complaint of the Defacto Complainant, the petitioner has merely discharged his duties as a public servant. There is absolutely no material to implicate the petitioner as accused for the offences under Section 120(b) 420, 465, 506(i) of IPC. The petitioner has merely relied upon the patta which has been marked as Ex.B2 in O.S.958/2004. The said suit was filed by the Defacto complainant which was dismissed and the appeal was also



dismissed in A.S.No.3/11 on 18.09.2012. The patta bearing Patta No.1470 was issued on 15.07.2009. The mere fact that the very same Patta No. 1470 was cancelled only on 24.07.2015 itself, would show that, it was in existence at the time of registration on 25.03.2013. Therefore admittedly, no case has been made out against the petitioner. The learned counsel has also made reliance upon the decision rendered by this court in Crl.O.P.(MD).No.774/2007 dated 22.11.2007 wherein a case holds as follows;

"5. In my considered opinion, a perusal of the F.I.R. would go to show that there are no allegations, warranting any investigation against the petitioner. As rightly pointed out by the learned counsel for the petitioner, being the Sub-Registrar, he has got no authority to decide the question of title in respect of the properties, with reference to which, the documents are presented before him for registration. As per the Act, he is obliged to register the documents, provided, the other conditions are satisfied. It may be true that the executors of the documents have impersonated or other modes, with a view to defraud by committing forgery or by other modes, with a view to defraud the original owners of the properties. But the petitioner, who has only registered the documents cannot be held responsible for the said offence committed by those persons. Therefore, the F.I.R. registered against this petitioner is not at all sustainable and there are no prima facie allegations made out against the petitioner, warranting any further investigation into the matter.

6. In Crl.O.P.(MD).No.6447 of 2006, when a similar F.I.R. was sought to be quashed by a Sub-Registrar of Sayalkudi, this Court, by order dated 04.09.2006, has taken a similar view and quashed the F.I.R. The learned counsel has produced another order of this Court in Crl.O.P.(MD).Nos.8765 and 8766 of 2006 filed by the Sub-Registrar of Kadalai, Ramanathapuram District, wherein also similar allegations were made, this Court, by order dated 07.12.2006 has quashed the said F.I.R. The view of taken by me herein before is fortified by the view taken by the learned single Judge in the above cited orders".

4. Per contra it is submitted that the Patta No.1470 was cancelled by the proceedings of the Thasildar on 23.04.2013, and based upon the proceedings, a separate patta was issued in Patta No.54 to the second respondent/defacto complainant on 29.04.2013. As the submissions made and based upon the facts, no interim order is required. The learned Government Advocate (Crl. Side) submitted that investigation is going on and therefore no interference is required at this stage.

5. The fact that the Patta No.1470 marked as Ex.B2 in O.S.No.958/2004 which was filed by the defacto complainant is not in dispute. It is also not in dispute that the said suit was dismissed in A.S.No.3 of 2011 which was filed at the instance of the second respondent.



6. The Patta No.1470 was issued on 15.07.2009, but the registration of the document by A1 infavour of Gopalakrishnan was made on 25.03.2013. Admittedly, on that day the Patta No.1470 was not cancelled. Therefore the offences alleged against the petitioner are not made out. The petitioner has merely acted in his official capacity. The ratio laid down by this court as referred supra would also be applicable to the case on hand.

7. Considering the same this court is inclined to quash the proceedings in Crime No.18 of 2014 on the file of the Inspector of Police, Anti-land Grabbing Cell, Karur, so far as the petitioner is concerned. The trial court will have to proceed the trial further, without being influence to any of the points made in this order.

8. Accordingly, this Criminal Original Petition is allowed. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(CO)

/TRUE COPY/

Sub Assistant Registrar

To

1. The Judicial Magistrate,
Special Court for Land Grabbing Cases, Karur.
2. The Inspector of Police,
Anti-Land Grabbing Cell,
Karur.
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1cc to Mr.P.Muthusamy, Advocate SR.No.41484

+1cc to Mr.K.P.S.Palanivelayutham, Advocate SR.No.41292

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PJL

PA/AMF/SAR-II/19.08.2015/3P/6C