



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 09.06.2015

CORAM:

THE HONOURABLE MR.JUSTICE **M.M.SUNDRESH**

WEB COPY

Crl.O.P(MD)No.8362 of 2015

Tr.Yobu Chandrasekar Daniel,
represented through the
Power Holder R.Johnson

.. Petitioner

Vs.

1.The State rep. by
Inspector of Police,
Sankarankovil Town Police Station,
Sankarankovil, Tirunelveli District.

2.The Superintendent of Police,
Tirunelveli,
Tirunelveli District.

.. Respondents

Prayer: Criminal Original Petition filed under Section 482 of Cr.P.C to direct the respondent No.1 to register the case based upon the petition presented by the petitioner, dated 15.04.2015.

For Petitioners : Mr.V.Kathirvelu, Senior Counsel
for Mr.K.Prabhu

For Respondents : Mr.K.Anbarasan
Government Advocate

For Intervenor : Mr.F.X.Eugene

O R D E R

This petition has been filed under Section 482 of Cr.P.C seeking to direct the respondent No.1 to register the case based upon the petition presented by the petitioner, dated 15.04.2015.

2.Heard the learned counsel for the petitioner and the learned Government Advocate (Crl.side) appearing for the State.

3. The property to an extent of 5.68 acres in Survey No.52 at Sankarankovil, was originally owned by the ancestors of the proposed respondents. The proposed accused Nos.2 to 5 are the legal heirs. The proposed accused Nos.6 and 7 are the female heirs and the proposed accused No.8 is the wife of the deceased Eswaran. The proposed accused No.1 is the daughter-in-law of the proposed accused No.2.

4.The petitioner purchased two acres of land from one Seraj by a registered sale deed dated 23.05.2007. The said Seraj in turn had purchased the said property from the proposed accused Nos.2 to 5 in the



year 2002. The remaining extent of 3.68 acres were also purchased by the petitioner from the proposed accused Nos.2 to 5 by a registered sale deed dated 26.06.2006. The petitioner using the said land for the school.

5. It is the case of the petitioner that permission was granted to the proposed accused No.2 to use the Well situated in the land purchased by him. It was closed in view of the helipade created for the Hon'ble Chief Minister. It is objected by the proposed accused No.2. Hence a complaint was given and the same was closed in pursuant to the statement given by him on 07.05.2013 stating that he would not interfere henceforth.

6. It is the further case of the petitioner that documents have been created as if the proposed accused Nos.6 and 7 have also got right in the property sold in the year 2002 and 2006 respectively. Based on the subsequent documents, a registered sale deed has been executed on 26.12.2014 curiously signed by the proposed accused Nos.2 to 5. Accordingly, a complaint was given. The complaint has been closed as a civil dispute.

7. The learned Senior Counsel appearing for the petitioner submitted that there is absolutely no civil dispute involved. All the documents are concocted and obtained much after the execution of the sale deed in favour of the petitioner. These documents have been created by the proposed accused Nos.2 to 5 in connivance with the proposed accused No.1.

8. Per contra, the learned counsel, who was sought to implead the proposed accused submitted that there is a civil dispute between the parties in O.S.No.136 of 2015 which was filed by the proposed accused Nos.6 to 8 and the proposed accused No.9, who is the purchaser from the accused Nos.6 to 8. He has also submitted that the complaint disclosed a civil flavour.

9. The learned Government Advocate (crl. Side) submitted that the complaint has been closed as it discloses civil flavour and therefore, the petition may be dismissed.

10. The facts narrated above speaks for themselves. It is surprising as to how the proposed accused Nos.2 to 5 could execute a deed duly notarized stating that the proposed accused Nos.6 to 8 also have title in the year 2014. Based upon the said document a sale deed has been executed in favour of A9 by the accused Nos.6 to 8. It is curious to note that the same property sold by the proposed accused Nos.2 to 5 is sought to be sold again by the proposed accused Nos.6 to 8 with the knowledge of the accused Nos.2 to 5 in favour of the proposed accused No.9.

11. The above said facts clearly established a cognizable offence. These are all borne out by documents. Therefore, this Court is constrained to direct the respondent No.1 to register the complaint against the proposed accused. The said act will have to be done within a period of four weeks from the date of receipt of a copy of this order. While registering the complaint, the respondent No.1 will have to find out as to whether any complicity of proposed accused No.1 is available. If it is not so, then the name of the proposed accused No.1 shall be deleted. After the



registration of the complaint, the ***respondent No.2** is directed to transfer the investigation to any other officer under his jurisdiction and then monitor and supervise the investigation. Final report will have to be filed within a period of four months thereafter, after the new investigating officer taken charge. It is made clear that the observation made by this Court are only prima facie.

12. The Criminal Original Petition is disposed of accordingly.

Sd/-

Assistant Registrar

***AMENDED AS PER ORDER OF THIS HON'BLE
COURT DATED AND MADE
IN MP(MD)1 OF 2015
IN CRL OP(MD)No. 8362 OF 2015**

Sd/-

Assistant Registrar(C0)

/True copy/

Sub Assistant Registrar

To,

TO BE SUBSTITUTED TO THE ORDER ALREADY DESPATCHED ON 10.06.2015

- 1.The Inspector of Police,
Sankarankovil Town Police Station,
Sankarankovil,
Tirunelveli District.
- 2.The Superintendent of Police,
Tirunelveli,
Tirunelveli District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

+1cc to Mr.K.PRABHU, Advocate, in SR. No. 28875

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TS/10.06.2015/3P-5C

TS/06.07.2015/2P -5C

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