

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON: 17.06.2016

PRONOUNCED ON: 22.06.2016

CORAM:

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

Crl.O.P. No.10102 of 2016 and Crl.M.P. Nos.5378
and 5379 of 2016

S.P. Jeyalakshmi

Petitioner

vs.

1 State represented by
the Inspector of Police
Central Crime Branch
Team XV, Vepery, Chennai - 7

2 Bakyalakshmi

3 R. Ganesan

4 Sheela Devi

Respondents

RR 2 to 4 represented by their
General Power of Attorney
P. Gnanasekaran

Criminal Original Petition filed under Section 482 Cr.P.C., to
call for the records pertaining to the C.C. No.1417 of 2016 on the
file of the V Metropolitan Magistrate, Egmore, Chennai and quash
the same.

For petitioner Mr. P.R. Raman, Sr. Counsel
for Mr. T.K.S. Gandhi

For R1 Mr. C. Emalias, Addl. Public Prosecutor

For RR 2 to 4 Mr. N. Ramakrishnan
for M/s. Waran & Sai Rams

ORDER

This Criminal Original Petition is filed to call for the
records pertaining to the C.C. No.1417 of 2016 on the file of the V
Metropolitan Magistrate Court, Egmore, Chennai and quash the same.

2 Heard the learned counsel for the petitioner, learned Additional Public Prosecutor appearing for the first respondent State and the learned counsel for respondents 2 to 4.

3 On a complaint lodged by one Bakyalakshmi, the second respondent herein and 2 others before the V Metropolitan Magistrate, Egmore, a direction under Section 156(3) Cr.P.C. was issued, pursuant to which, the Inspector of Police, K-10 Koyambedu Police Station registered a case in Crime No. 1911 of 2011 against the petitioner and others for offences under Section 120-B, 463, 464, 468, 471 and 506 (II) I.P.C. The case was transferred to the file of the Inspector of Police, Central Crime Branch Team-15, Chennai and after completing the investigation, the police have filed a final report in C.C. No.1417 of 2016 before the V Metropolitan Magistrate, Egmore, Chennai, against S.P.Jayalakshmi (A1), the petitioner herein, her father Pandian (A2), Senthur Pandian (A3), Sridhara Vidya Sagara Pandian (A4) and Goutham (A5), challenging which, S.P.Jeyalakshmi (A1), the petitioner herein is before this Court seeking quashment of the final report.

4 It is the case of the prosecution that the land in question measuring 19 cents belonged to one Chandrakumar from whom one Bakyalakshmi, Ganesan and Sheela Devi (de facto complainants) purchased the same on 19.05.2008 under sale deed document no.1850 of 2008 (SRO), Anna Nagar and were in enjoyment of the property. Patta was transferred in the name of the de facto complainants. The land in question originally belonged to Chandrakumar. While so, S.P. Jeyalakshmi, Pandian and Goutham claimed title to the property and filed suits in O.S. No.3524 of 1996, 3086 of 1998 and 3845 of 2007, which were also dismissed on 01.08.2001, 10.02.2003 and 30.07.2008 respectively. It is also the case of the prosecution that Pandian (A2), who is the father of Jeyalakshmi, is a notorious person and he was detained preventively under the Goondas Act. It is further alleged by the prosecution that Jeyalakshmi (A1) and her father Pandian (A2) had created a false patta, as if the property belongs to Chandrakumar, which was later cancelled by the Revenue authorities on 15.06.2007. It is also alleged by the prosecution that they had created a fictitious person in the name of Kuppammal in whose name patta was obtained from the Revenue authorities in respect of the de facto complainants' land, based on which they have created encumbrance to the properties of the de facto complainants.

5 Mr. P.R. Raman, learned Senior Counsel for the petitioner/accused submitted that the said Kuppammal is not a fictitious person and that even in the sale deed dated 19.05.2008 under which the de facto complainants are claiming title, there is a reference to Kuppammal.

6 The learned counsel for the de facto complainants submitted that the averments in the exchange deed dated 10.03.2004 that is relied upon by the petitioner/accused under which the petitioner/accused is claiming title, on the face of it, look ludicrous.

7 The learned counsel for the de facto complainants took this Court through the exchange deed dated 10.03.2004, wherein, it is averred that the property in question belongs to one Kuppammal, who is said to have purchased the property from one Thiagarajan on 05.08.1976 through her power agent Senthur Pandian (A3) and the sale deed has been registered on 03.05.1996 as Document No.1663/1996 in the office of the SRO, Peeramedu, which is in Kerala and not in Tamil Nadu. That apart, the learned counsel took this Court through the following portion of the exchange deed dated 10.03.2004:

"Pandian vide the General Power of Attorney dt. 21.01.1998 and Registered as Document No.14 of 1998 in Book 4, Volume 6, pages 283 to 286 on the file of the S.R.O. Ashok Nagar Chennai as well as fully assigned to M/s. Kasi Housing and Development Ltd. in the agreement dated 11.07.2001 (Notarised) from M/s. Sivanthi Estates Authorised and represented by its Managing Partner Mr. Srithara Vidyasagara Pandian along with the release deed (Notarised) dated 11.07.2001 settled the full consideration and thereafter enjoyed the possession and right of the property within the meaning of lawful possession."

and submitted that all the transactions are based on notarised documents which have not been registered as required under Section 17 of the Registration Act. With these documents, the accused have been dabbling with the property of the de facto complainants and claiming title to them by filing vexatious and frivolous suits.

8 There appears to be force in the submission of the learned counsel for the de facto complainants that there are prima facie materials to show that the petitioner and her father are a part of an inter-State land mafia, targeting gullible people.

9 The contention of Mr. P.R. Raman, learned Senior Counsel appearing for the petitioner/accused that there are suits pending and hence, the prosecution has to be quashed, cannot be countenanced, for, it is not a thumb rule that a civil case and a criminal case cannot co-exist, as held by the Supreme Court in M.Krishnan vs. Vijay Singh and another, [(2002) MLJ (Cr1.) 134], wherein, the Supreme Court has cautioned as follows:

"3.The High Court appears to have been impressed by the fact that as the nature of the dispute was primarily of a civil nature, the appellant was not justified in restoring to the criminal proceedings.

4. Accepting such a general proposition would be against the provisions of law inasmuch as in all cases of cheating and fraud, in the whole transaction, there is generally some element of civil nature. However, in this case, the allegations were regarding the forging of the documents and acquiring gains on the basis of such forged documents. The proceedings could not be quashed only because the respondents had filed a civil suit with respect to the aforesaid documents. In a criminal Court, the allegations made in the complaint have to be established independently, notwithstanding the adjudication by a Civil Court. Had the complainant failed to prove the allegations made by him in the complaint, the respondents were entitled to discharge or acquittal but not otherwise. If mere pendency of a suit is made a ground for quashing the criminal proceedings, the unscrupulous litigants, apprehending criminal action against them, would be encouraged to frustrate the course of justice and law by filing suits with respect to the documents intended to be used against them after the initiation of criminal proceedings or in anticipation of such proceedings. Such a course cannot be the mandate of law. Civil proceedings, as distinguished from the criminal action, have to be adjudicated and concluded by adopting separate yardsticks."

10 The Supreme Court, in State of Haryana vs. Bhajan Lal, 1992 Supp. (1) SCC 335, has laid down the parameters for quashing an F.I.R. which are being consistently followed by the Supreme Court, till date. The case on hand does not pass muster the law laid down in the said judgment, for quashing the prosecution.

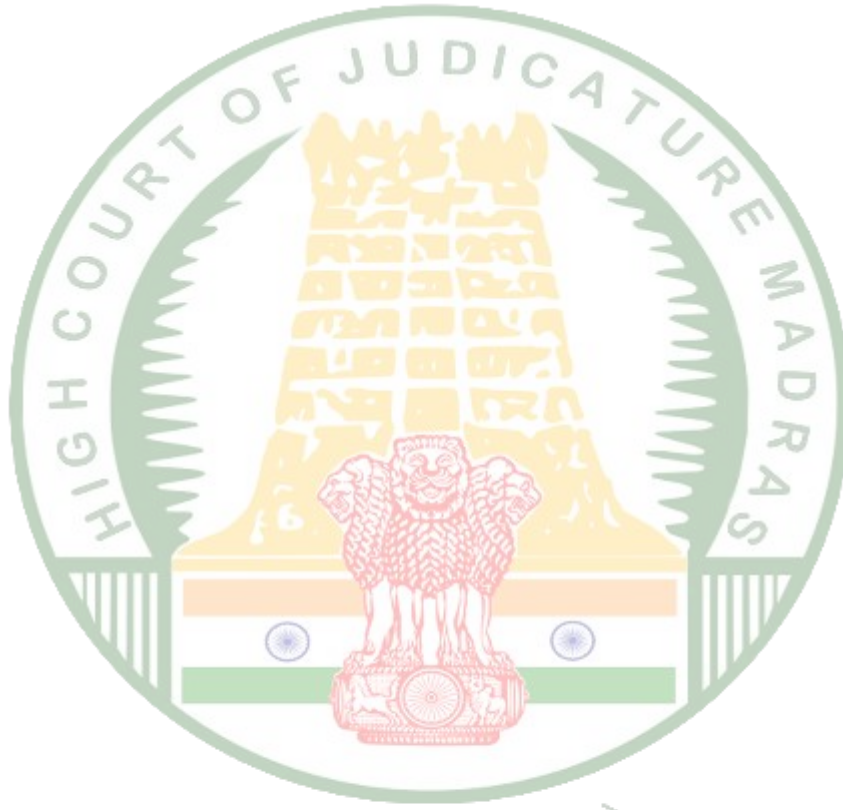
In the result, this Criminal Original Petition is dismissed as being devoid of merits. Connected Crl.O.Ps. are closed.

Sd/-
Assistant Registrar(CS III)

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Sub Assistant Registrar

cad



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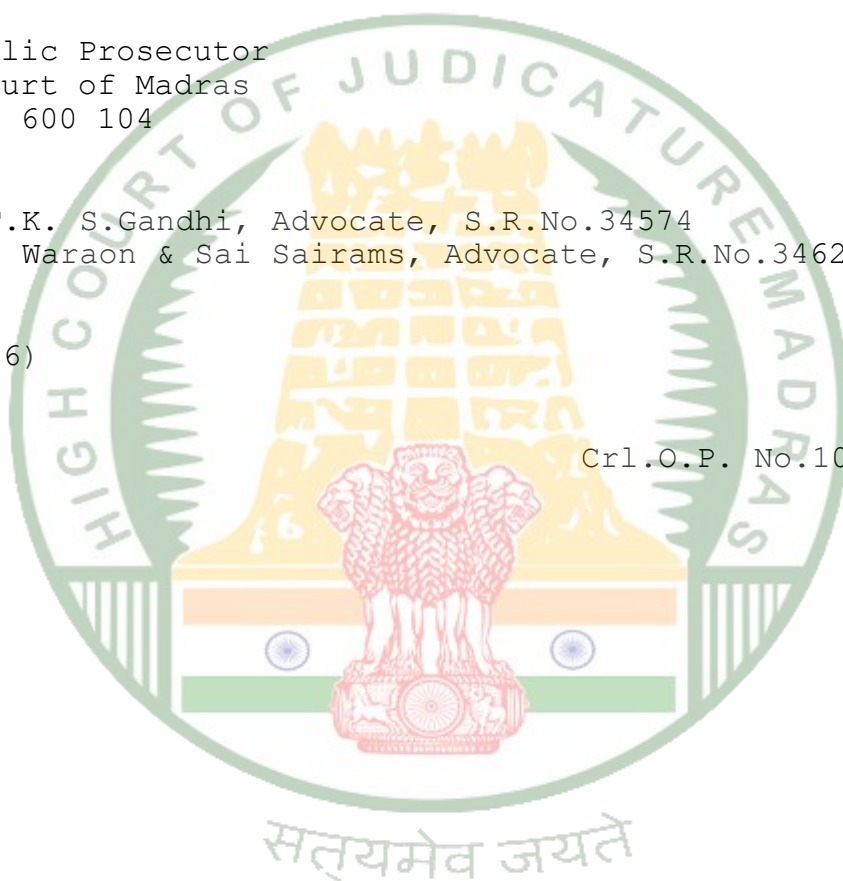
To

- 1 The V Metropolitan Magistrate
Egmore
Chennai
- 2 The Inspector of Police
Central Crime Branch
Team XV, Vepery, Chennai - 7
- 3 The Public Prosecutor
High Court of Madras
Chennai 600 104

+1cc to Mr.T.K. S.Gandhi, Advocate, S.R.No.34574
+1cc to M/s. Waraon & Sai Sairams, Advocate, S.R.No.34622

SVI(CO)
EU(02/07/2016)

Cr1.O.P. No.10102 of 2016



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