

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.07.2016

CORAM

THE HONOURABLE MR.JUSTICE P.N.PRAKASH

Cr1.OP.No.13796 of 2016
and Cr1.MP.No.7055 of 2016

1.G.Latha
2.C.Sarojini
3.D.Raja

.... Petitioners

Vs

1.The State of Tamil Nadu
Represented by the Inspector of Police,
Central Crime Branch,
Tiruppur City,
Tiruppur District.

2.S.N.S.Sugumaran Respondents

Prayer:- Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure to call for the entire records pertaining to FIR No.9 of 2016 dated 01.06.2016 under Sections 465, 467, 468, 471 and 120(b) IPC on the file of the Inspector of Police, Central Crime Branch, Tiruppur City, Tiruppur District and quash the same.

For Petitioners :No appearance

For Respondents [R1] : Mr.C.Emalias,
Additional Public Prosecutor

ORDER

This Criminal Original Petition has been filed to quash the proceedings pertaining to FIR No.9 of 2016 dated 01.06.2016 on the file of the 1st respondent.

2. On 01.07.2016, this Court has passed the following order :

"No representation for the petitioners, on account of boycott of Courts.

Post the matter under the caption "for dismissal" on 05.07.2016."

3. On 11.07.2016, this Court has passed the following order :

"Post on 13.07.2016 under the caption
"for dismissal."

4. Today, the matter is posted under the caption "for dismissal". Even today, there is no representation for the petitioners, may be due to boycott of Courts. However, in Harish Uppal [Ex.Capt.] Vs Union of India, reported in [2003] 2 SCC 45, the Hon'ble Supreme Court has held that boycott of Courts is illegal and therefore, this Court perused the records, heard the learned Additional Public Prosecutor and passed orders.

5. The respondent-police have filed a counter, wherein in it is stated as follows in paragraph nos.3 to 5:

"3. It is submitted that the defacto complainant /2nd respondent Tr.S N S Sugumaran has lodged a complaint before me on 01.06.2015 and the same was registered in CCB Cr.No.9/2016 under Sections 120(b), 465, 467, 468 & 471 IPC on 01.06.2016 at 18.00 hours against G.Latha/A-1; Sarojini/A-2; Chinnasamy/A3 and Raja/A4. A-1, A-2, A-4 are the petitioners herein, for the offence committed by them.

The brief facts of the complaint is that the defacto complainant's father late Tr.N.Shanmugam Chettiar, bought a land admeasuring 3.68 acres comprising in Survey Nos.755, 756 of Thottipalayam Village, Tiruppur District from Periamaraboyan and others vide Doc.No.678/1948 of Tiruppur Joint Registrar.

Subsequent to the purchase of the said property, there were several civil suits has been filed by Palaniboyan, S/o.Nayundaboyan's legal heirs who are the predecessor in interest of the property. In the civil suit in O.S.No.456/1950 and 418/1950 of Sub Court, Coimbatore were clubbed and tried together by 1st Additional Sub Court, Coimbatore and decreed in favour of N Shanmugam Chettiar and allotted 4/5th share of 11.58 acres in Survey Nos.755 & 756 of total land admeasuring 14.47 acres and the remaining 2.89 acres belongs to Tr.Venkitappa Gounder and others (who is a son of subsequent purchaser Kandappa Gounder).

Subsequent to the above said order, there were several civil suits filed by Palaniboyan's legal heirs and subsequent purchasers against them, finally the said order was confirmed by the Hon'ble Supreme Court vide its order dated 21.04.1980 & 28.04.1980 in SLP.Nos.4402/1980 & 4403/1980.

At present, one Latha/1st petitioner, without including the defacto complainant in a civil suit filed in OS.No.326/2013 before Sub Court, Tiruppur and obtained compromised decree for the property admeasuring 7 acres 9 ½ cents in SF.No.755 and 756 by producing fake "Unregistered Will" dated 31.12.1986 written by Kuppammal W/o.Palaniboyan in favour of her daughter Masiriammal, for enjoyment of the disputed property by A-1 and her grand daughter Sarojini. Whereas, the said Masiriammal, was not the daughter of Kuppammal, who is the Kuppammal's grandson's daughter, A-1 to A-3 colluded with each other with an intention to grab the said property, created the said forged "unregistered will" and obtained partitioned decree in favour of them by impersonating as "Title deed holder name Palaniboyan" vide civil suit No.OS.No.326/13.

Based on the said decree, A-1 given General Power of Attorney to A-4 vide Doc.No.4712/BK4/2012 and grabbed the said disputed property.

Further the defacto complainant alleged that the Masiriammal was died on 23.11.1987 and legal heir certificate was obtained on 21.09.1988, whereas the death of Masiriammal is registered only on 15.02.2008. Hence this complaint.

4. It is submitted that during the course of investigation, I have examined and recorded the statement of defacto complainant, wherein he corroborated the same version given in the complaint.

5. It is submitted that I have sent summons to respondents/accused

Tmt.Latha/A-1 and D.Raja/A-4 dated 11.06.2016 and 06.07.2016 respectively, to produce original will executed by Kuppammal W/o.Palaniboyan dt.31.12.1986 along with other title documents for verification and comparison. Awaiting to receive the same from them.

6. On a reading of the FIR, there appears to be a prima facie materials for the investigation to proceed against the petitioners. Since the FIR cannot be quashed in the light of the law laid down by the Hon'ble Supreme Court in State of Haryana Vs Bhajan Lal 1992 Supp [1] SCC 335, the petition stand dismissed. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

ds

To

1.The Inspector of Police,
Central Crime Branch,
Tiruppur City,
Tiruppur District.

2.The Public Prosecutor,
High Court, Chennai. सत्यमेव जयते

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