

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.01.2016

CORAM

THE HONOURABLE MR. JUSTICE R.SUBBIAH

CrI.O.P.No.30162 of 2015

A.Boopathy

... Petitioner

Vs

The Deputy Superintendent of
Police,
District Crime Branch,
Kancheepuram District.

.... Respondent

Criminal Original Petition filed under Section 482 Cr.P.C. to issue a direction against the respondent to re-investigate Crime No.89 of 2012 on the file of the learned Judicial Magistrate, Tambaram and to file final report in compliance with the order of the learned Judicial Magistrate, Tambaram, dated 12.12.2014 passed in C.M.P.No.852 of 2014 in Crime No.89 of 2012.

For Petitioner : Ms.G.Nalini

For respondent : Mr.C.Emalias,
Addl.Public Prosecutor

ORDER

The present criminal original petition has been filed seeking a direction to the respondent to re-investigate the case in Crime No.89 of 2012 on the file of the learned Judicial Magistrate, Tambaram and to file final report in compliance with the order of the learned Judicial Magistrate, Tambaram, dated 12.12.2014 passed in C.M.P.No.852 of 2014 in Crime No.89 of 2012.

2. It is the case of the petitioner that he is the resident of Guduvancherry, Chengalpattu Taluk. His mother Chinnammal died on 3.12.1999. The death of his mother was registered in the office of the Nandivaram Guduvancherry Town Panchayat by his elder brother on 8.12.1999 vide registration No.120 of 1999. During her life time, the petitioner's mother executed a Will dated 9.3.1995 bequeathing her self acquired immovable properties situated at Orathur Village, Sriperumbudur Taluk, Kancheepuram District measuring to a total extent of nearly 5.26 acres, in three equal shares in favour of her sons

including the petitioner herein. By virtue of the said Will, the petitioner and his brothers have been in absolute possession and enjoyment of the said properties by effecting mutation of name in the revenue records. While so, with a mala fide intention to grab the said properties, one Kuppusamy and his sons and daughters viz., Ramasamy, Bhuvaneshwari, Manjula, who are all the legal heirs of the petitioner's deceased elder sister Indhirani, created a fake death certificate of Chinnammal with the date of death as 3.10.1994 i.e., five years prior to the actual date of death of Chinnammal, allegedly with the registration No.82 dated 15.10.1994 issued by the Headquarters Deputy Tahsildar and also created a fake legal heirship certificate dated 7.12.1995 allegedly issued by the Tahsildar, Chengalpattu. After creating the said records, they have chosen to execute a settlement deed in favour of their brother one Manickam conveying their alleged 1/7th undivided share of those immovable properties, which were already bequeathed by the petitioner by virtue of the registered Will dated 9.3.1995 executed by his mother Chinnammal. Hence, the petitioner lodged a complaint with the Superintendent of Police, Land Grabbing Cell, Kancheepuram District and the same was assigned CSR number as CSR No.956/2012. Since no action was taken on the said complaint, he obtained a direction from the learned Judicial Magistrate, Tambaram under Section 156(3) Cr.P.C. to initiate criminal action against the accused persons. Even thereafter, only after filing a petition in C.M.P.No.3395 of 2012 before the learned Judicial Magistrate, Tambaram, to comply with the earlier direction to file a FIR, a FIR was registered against the accused persons in Crime No.89 of 2012 for the alleged offences under Sections 465, 468, 471, 420 and 120(b) I.P.C. On 27.12.2013, the petitioner received a notice from the Inspector of Police, Anti Land Grabbing Special Cell, Kancheepuram District, expressing his intention to file a negative final report and the petitioner was given a week's time to protest the said report. Hence, the petitioner filed a protest petition in CrI.M.P.No.852 of 2014 and in the said petition, the learned Magistrate passed an order dated 12.12.2014, directing the Deputy Superintendent of Police, Kancheepuram District Crime Branch, the respondent herein to further investigate the case in Crime No.89 of 2012. However, even after a lapse of nearly three years, the respondent has not filed final report. Hence, the petitioner has come forward with the present petition seeking a direction to the respondent to re-investigate the case in Crime No.89 of 2012 on the file of the learned Judicial Magistrate, Tambaram and to file final report in compliance with the order of the learned Judicial Magistrate, Tambaram, dated 12.12.2014 passed in C.M.P.No.852 of 2014 in Crime No.89 of 2012.

3. The respondent has filed a detailed counter stating that based on the complaint given by the petitioner before the learned Judicial Magistrate, Tambaram, a case was

registered in Crime No.89 of 2012 and the then Special Sub Inspector of Police took up the investigation in this case and during the course of investigation, he collected relevant vital documents and also examined the witnesses. Further investigation was taken up by one D.Rajendran, Inspector of Police, A.L.G.S.C., Kancheepuram District on 29.10.2013. After completion of detailed investigation, the Inspector of Police referred the case as 'mistake of fact' on 27.12.2013 on the ground that the allegations made by the de facto complainant are false. He has filed the final report before the learned Judicial Magistrate, Tambaram and RCS Notice No.7/2013 was also duly served on the de facto complainant. Later, the de facto complainant moved the Judicial Magistrate Court, Tambaram by filing a petition in C.M.P.No.852 of 2014 for further investigation by the Deputy Superintendent of Police, District Crime Branch, Kancheepuram, the respondent herein and the learned Magistrate by order dated 12.12.2014, directed the respondent, to conduct further investigation and file a final report before the Court concerned. Based on the said direction, the respondent took up further investigation and examined the de facto complainant and recorded his statement. He has also collected relevant vital documents pertaining to the said case. During the course of investigation, the respondent perused several documents and a perusal of the documents reveals that the death certificate of Chinnammal issued to the accused persons is genuine and the death certificate and legal heirship certificate issued to the complainant and his two brothers were cancelled by the Revenue Divisional Officer, Chengalpattu. The investigation of this case is in crucial stage. After completion of investigation, final report would be filed before the appropriate Court. Thus, he sought for dismissal of the petition.

4. It is the main grievance of the petitioner that even after a lapse of nearly three years, the respondent has not filed final report. Hence, he sought for re-investigation of the case in Crime No.89 of 2012 pending on the file of the learned Judicial Magistrate, Tambaram and to file a final report. In the counter affidavit filed by the respondent, it has been clearly stated that pursuant to the directions of the learned Judicial Magistrate, Tambaram, dated 12.12.2014 made in C.M.P.No.852 of 2014, the respondent took up further investigation and the investigation is in the crucial stage. Therefore, there is no need for this Court to give any specific direction to the respondent to re-investigate the case in Crime No.89 of 2012. However, I am of the opinion, an appropriate direction could be given to the respondent to complete the investigation and file final report as early as possible.

5. In the result, the present criminal original petition is dismissed. However, the respondent is directed to complete the investigation in Crime No.89 of 2012 and file final report as expeditiously as possible.

sbi

s/d-
Assistant Registrar(CO)

True Copy

Sub-Assistant Registrar

To

1. The Judicial Magistrate,
Tambaram.
 2. -do- thro' the Chief Judicial Magistrate,
Chengalpat.
 3. The Deputy Superintendent of
Police,
District Crime Branch,
Kancheepuram District.
 4. The Public Prosecutor, High Court, Madras.
- + 1 CC TO Ms.G.Nalini, ADVOCATE SR 2137 (01/02/16)

scd(co)
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