

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.10.2016

CORAM

THE HONOURABLE MR.JUSTICE P.N.PRAKASH

CrI.OP.No.8038 of 2011

M.Panneerselvam

... Petitioner

Vs

State rep. by
Sub Inspector of Police,
Central Crime Branch,
Egmore, Chennai-600 008.

... Respondent

Prayer: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure to call for the records and quash the proceedings in respect of the petitioner/A2 in X Crime No.247 of 2010 pending investigation on the file of the Sub Inspector of Police, Central Crime Branch, Egmore, Chennai-600 008.

For Petitioner : Mr.G.Jawaharlal

For Respondent : Mr.C.Emalias,
Additional Public Prosecutor

ORDER

This Criminal Original Petition has been filed seeking to call for the records and quash the proceedings in respect of the petitioner/A2 in X Crime No.247 of 2010 pending investigation on the file of the Sub Inspector of Police, Central Crime Branch, Egmore, Chennai-600 008.

2. Heard the learned counsel for the petitioner and the learned Additional Public Prosecutor appearing for the State.

3. On the complaint lodged by one G.Badrilal, the respondent police registered a case in Cr.No.247 of 2010 on 20.05.2010 for the offences u/s 419, 420, 465, 467, 468 r/w 471 and 120-B IPC against (i) Kaliappa Pillai @ Devaraj, (ii) Panneer Selvam and (iii) J.Shyamlal Joshey, challenging which Panneer Selvam is before this Court.

4. The case of the de facto complainant is as follows:-

4(i). The property in question measuring totally 2.37 acres, originally belonged to one Thangavel Naicker and 5 others. From them, two powers of attorney were executed in respect of the said land to Ramgopal on 05.3.1984. B.Ramgopal

formed a lay out called Muralikrishna Nagar, Valasaravakkam, Chennai-87 and G.Badrilal, the de facto complainant purchased a plot bearing No.28 by sale deed dated 17.12.1993. Similarly, one Urmila, who is a relative of G.Badrilal also purchased a plot bearing No.47 in Muralikrishna Nagar, Valasaravakkam, Chennai-87 on 23.06.1989. While so, when G.Badrilal and Urmila were taking steps to fence their property, some persons prevented them. Therefore, they approached the police and requested the police to conduct further enquiry into this aspect. They came to know that Kaliappa Pillai @ Devaraj (A1) had impersonated as Ramgopal and had created a bogus sale deed viz., document No.1015/1984 on 12.04.1984 in respect of the de facto complainant's property.

4(ii). Thereafter, Kaliappa Pillai @ Devaraj (A1) has given a General Power of Attorney to R.Vivek Anand, who is none other than the brother-in-law of Panneer Selvam. On the strength of the said Power of Attorney, R.Vivek Anand executed a sale deed in favour of Panneer Selvam(A2) on 24.11.2009. Hence, the FIR.

6. The learned counsel for Panneer Selvam/A2 contended that the property was purchased by the predecessors-in-title way back in the year 1984 and there are civil suits pending amongst the parties. He also submitted that the title of G.Badrilal is in doubt inasmuch as Thangavel Naicker died on 25.04.1996 itself, whereas, G.Badrilal has purchased the property subsequent to his death only in the year 1983 and that the Power of Attorney would have lapsed.

7. Per contra, the learned Additional Public Prosecutor submitted that the investigation in Cr.No.247 of 2010 has almost been completed and during the course of investigation, it was found that Ramgopal had not executed the document No.1015/1984 dated 12.04.1984 and the report obtained from the expert vindicates this stand. He also submitted that Panneer Selvam/A2 is the witness in the General Power of Attorney (245 of 2009) that was executed by Kaliappa Pillai @ Devaraj (A1) and that he, Urmila along with R.Vivek Anand and Panneerselvam had conspired to create encumbrance in the property of G.Badrilal.

8. This Court gave its anxious consideration to the rival submissions.

9. The learned counsel for the petitioner submitted that if the principal dies, the Power of Attorney abates. There cannot be any quarrel with the aforesaid proposition. Here, the allegation against Panneerselvam is that he, in collusion with the other accused, had created a bogus sale deed by impersonating Ramgopal. Assuming for a moment that G.Badrilal does not have proper title, that can, by no stretch of imagination, efface the crime alleged against the accused in this case. Thus, when there are prima facie materials for

the investigation to proceed, pendency of civil disputes cannot be a reason for quashing the FIR.

10. In the result, the Criminal Original Petition is dismissed as being devoid of merits with liberty to the petitioner to raise all points before the Trial Court. The respondent police is directed to complete the investigation within six months from the date of receipt of a copy of this order. It is made clear that whatever observations made in this order are only for the limited purpose of deciding this quash petition and the Civil Court shall not be influenced by the same.

Sd/-
Asst.Registrar

/true copy/

Sub Asst. Registrar

kmi

To

1. The Sub Inspector of Police,
Central Crime Branch,
Egmore, Chennai-600 008.

2. The Public Prosecutor,
High Court, Chennai.

+1cc to M/S G.Jawaharlal, Advocate Sr.61819

Cr1.OP.No.8038 of 2011

NR(CO)
RVR 29/12/2016

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