

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.11.2016

CORAM:

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

Crl.O.P.No.24494 of 2016 & Crl.M.P. No.11730 of 2016

S. Venkatesh

Petitioner

Vs.

State represented by
the Inspector of Police
District Crime Branch
Anti Land Grabbing Special Cell
Villupuram

Respondent

Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure to call for the records in Crime No.16 of 2016 on the file of the Inspector of Police, DCB, ALGSC, Villupuram and quash the petitioner's designation in the FIR.

For petitioners Mr.Anantha Narayanan, Sr. Counsel
for Mr. G. Baskar

For respondent Mr. C. Emalias
Additional Public Prosecutor

ORDER

This Criminal Original Petition has been filed seeking to call for the records in Crime No.16 of 2016 on the file of the Inspector of Police, DCB, ALGSC, Villupuram and quash the petitioner's designation in the FIR.

2 On the complaint lodged by one Govindasamy, the respondent police registered a case in Crime No. 16 of 2016 on 14.04.2016 against (1) Vijayakumar, (2) M. Govindasamy, S/o late Muthalu, (3) Krishnan and (4) the Sub-Registrar, Avarappakkam, for offences under Section 419, 423, 467, 468 and 471, IPC, challenging which, S. Venkatesh, Sub-Registrar, Avarappakkam, Villupuram, is before this Court.

3 It is the case of the de facto complainant that the property measuring 2 acres and 1.78 cents belongs absolutely to him. While so, on 17.12.2015, when he applied for encumbrance certificate, he came to know that Vijayakumar (A1) and Govindasamy (A2), who bears incidentally, the name of the de facto complainant, had registered a sale deed document no. 993 of 2015 on 24.03.2015 before the Sub-Registrar's Office, Avarappakkam, knowing full well that they have no title to the said land and that the land belongs to the de facto complainant.

4 Mr. Anantha Narayanan, learned Senior Counsel appearing for the petitioner submitted that the petitioner who was the Sub-Registrar at the relevant point of time, had registered the document in question in the usual course of his official business and therefore, he cannot be criminally liable.

5 Per contra, Mr. C. Emalias, learned Additional Public Prosecutor produced the sale deed in question and submitted that the same does not even contain the minimum recitals tracing the ownership of the property which is sine qua non for its registration.

6 As a riposte, the learned Senior Counsel appearing for the petitioner brought to the notice of this Court, Paragraph B in the circular dated 25.04.2012 issued by the Inspector General of Registration, Chennai, which reads as follows:

"B. In case previous document are not available as the property may be ancestral, the executants should produce revenue records such as patta copy issued by the Revenue Department and tax receipt in original along with attested/notarized xerox copies to prove that the properties are owned by them. The Registering Officer should verify the original and return them to the party concerned and preserve the attested xerox copy as part of the document by scanning and numbering it."

7 In the considered opinion of this Court, Paragraph B of the circular dated 25.04.2012 extracted above would apply in respect of registration of an ancestral property. However, on a reading of the sale deed in question, it is evident that the executant has not even traced the ancestry and the document is bereft of even the minimum particulars to show as to how the executant claims ownership to the said property.

8 The learned Senior Counsel submitted that the executant produced the patta, adangal and encumbrance certificate which were in his name and therefore, the petitioner

had no reason to doubt the genuineness of the sale deed. He further contended that Govindasamy (A2), who bears the name of the de facto complainant also hails from the same village and his father's name is also that of the de facto complainant's and thus, the circumstances did not arouse any suspicion in the mind of the petitioner when he registered the sale deed in question.

9 Be that as it may, when there are prima facie allegations in the FIR, this Court cannot sit in judicial review over the same in exercise of powers under Section 482, Cr.P.C. Had the sale deed in question contained the minimum details tracing the ancestry, this Court would have had no hesitation in relying upon the circular and quashing the FIR. In the absence of the same, the relief sought by the petitioner cannot be granted.

10 In view of the aforesaid discussion, this Criminal Original Petition is dismissed with a direction to the respondent police to conduct a thorough investigation, bearing in mind, the nature of duties of the petitioner as a Sub-Registrar and also the aforesaid circular. If, during investigation, it is found that the petitioner had not connived with the other accused, it is needless to state that he should be deleted from the prosecution. After completing the investigation, necessary final report may be filed before the jurisdictional Magistrate, since the Supreme Court has stayed all further proceedings before the Special Court for Land Grabbing cases. However, in the meantime, if the Supreme Court upholds the validity of the constitution of the Special Court for Land Grabbing Cases, it is open to the respondent police to file the final report before the said Court. Connected CrI.M.P. is closed.

Sd/-

सत्यमेव जयते
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

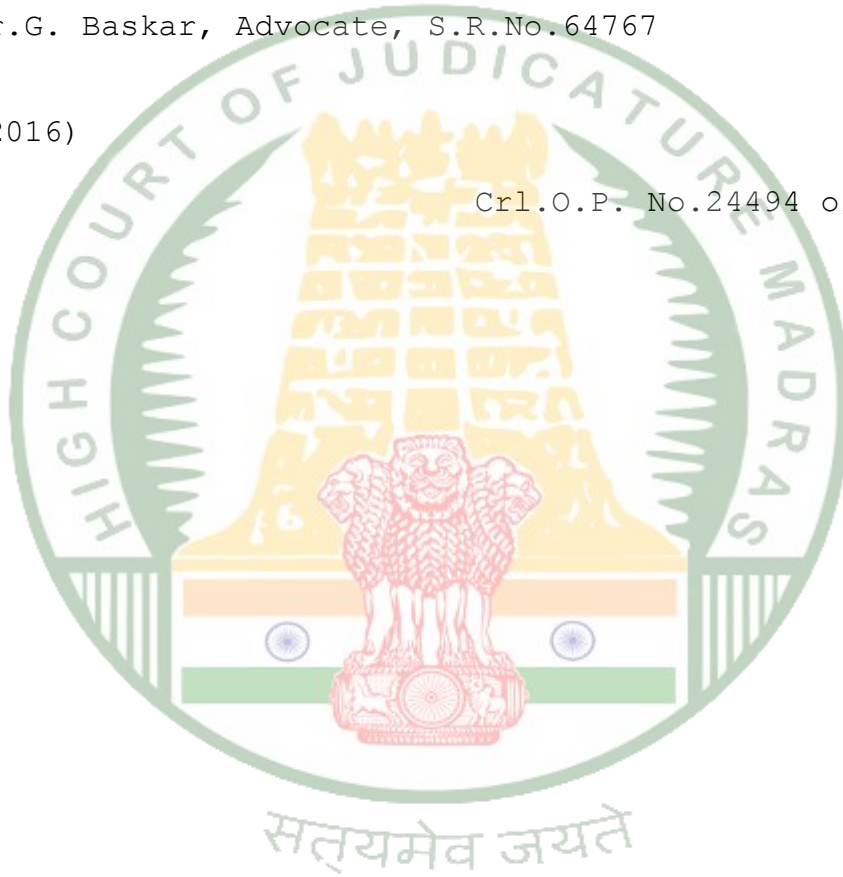
To

- 1 The Inspector of Police
District Crime Branch
Anti Land Grabbing Special Cell
Villupuram
- 2 The Public Prosecutor
High Court of Madras
Chennai 600 104

+lcc to Mr.G. Baskar, Advocate, S.R.No.64767

md(22/11/2016)

CrI.O.P. No.24494 of 2016



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