

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.04.2016

CORAM :

THE HONOURABLE MS. JUSTICE R.MALA

Crl.O.P.No.3818 of 2016

and

Crl.M.P.No.1949 of 2016

1.B.Krishnaveni
W/o.Late P.Balaram Naicker

2.B.Chandravelan
S/o.Late P.Balaram Naicker

3.B.Nithiyanandam
S/o.Late P.Balaram Naicker .. Petitioners/Accused Nos.1 to 3.

Vs.

1.State represented by its
The Inspector of Police,
District Crime Branch,
Kancheepuram District.

2.R.Karthick
S/o.I.Ramraj ... Respondents/Complainant and
Defacto Complainant.

Criminal Original Petition filed under Section 482 of
Cr.P.C., to call for the records pertaining to the records in
FIR in Crime No.97 of 2013 on the file of the first respondent
and quash the same.

For Petitioners : Mr.R.Sasikumar

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

O R D E R

Petitioners, who are arrayed as accused in Crime No.97 of
2013 on the file of the first respondent for offences u/s.120-B,
465, 467, 468, 471 and 420 IPC, have filed this petition seeking
quash of proceedings therein.

2. Learned counsel for the petitioners submitted that the
case in Crime No.97 of 2013 has been registered on the basis of
the complaint given by the second respondent. It is a case of

property dispute. One Perumal Naicker has purchased the property in question from one Kuppammal and K.Thirumalai Naidu. Thereafter, the said Perumal Naicker executed a settlement deed in favour of his two legal heirs, namely, Nagammal and Krishnaveni. He has settled 1 acre in favour of Nagammal and 2.25 acres in favour of Krishnaveni on 25.07.1978. Thereafter, Krishnaveni/A1 has sold the entire extent of 2.25 acres to her brother Subramani and his minor sons S.Elumalai and S.Sundarajan on 15.12.1983. Learned counsel submitted that it is alleged that the first petitioner/A1 has created forged documents and settled properties in favour her sons and later, she has cancelled the same on 17.12.2013. The first petitioner/A1 has filed a petition before this Court on 19.06.2014 seeking registration of a case and also for police protection. Pursuant thereto, a case in Crime No.1 of 2015 on the file of CBCID has been registered and the same is pending investigation. Learned counsel submitted that S.Elumalai and Sundarajan has filed a suit in O.S.No.2 of 2008 and also obtained an order of interim injunction in respect of the property in question. Learned counsel submitted that this case is purely civil in nature and the petitioners have been falsely implicated in this case. Submitting as above, learned counsel prays for quashing of the proceedings in Crime No.97 of 2013.

3. Even though the second respondent has been served, none appears on his behalf.

4. Resisting the submissions made by the learned counsel for the petitioners, the learned Additional Public Prosecutor submitted that Perumal Naicker is the original owner of the property and he settled the property in favour of his two daughters Nagammal and Krishnaveni. Krishnaveni is arrayed as A1 in this case. The said Perumal Naicker owned 3 acres and 25 cents. He settled 1 acre in favour of Nagammal and 2.25 cents in favour of Krishnaveni/A1. The first petitioner/A1 sold the entire extent of property viz., 2.25 acres to her brother Subramani and his minor sons S.Elumalai and S.Sundarajan on 15.12.1983. Thereafter, the first petitioner/A1 has settled her property and her sister's property i.e. 3.25 acres in favour of her sons/A2 and A3 on 12.02.2007. The second respondent/de facto complainant purchased the property from Subramani, S.Elumalai and S.Sundarajan on 24.03.2011. After purchasing the property only, the second respondent/de facto complaint came to know that A1 has initially sold the property to Subramani, S.Elumalai and S.Sundarajan in the year 1983 and again re-settled the same in favour of her sons. The First Information Report has been registered on 14.12.2013. Pending investigation, A1 approached the police for cancellation of the settlement deed executed in favour of A2 and A3 and has also executed a cancellation deed on 27.02.2008. Thereafter, the first petitioner/A1 has preferred a complaint and the case in Crime

No.1 of 2015 has been registered and the same is being investigated by the CBCID, Vellore. Submitting as above, the learned Additional Public Prosecutor prays for dismissal of the petition.

5. This Court has considered the rival submissions and perused the typed set of papers.

6. It is an admitted fact that Perumal Naicker was the original owner of the property viz., 3.25 acres. He settled the property in favour of his daughters viz., 1 acre in favour of Nagammal and 2.25 acres in favour of Krishnaveni, the first petitioner herein. The first petitioner/A1 has sold the property to her brother Subramani and his minor sons S.Elumalai and S.Sundarajan on 15.12.1983, who in turn sold the property to the de facto complainant on 24.03.2011. It is alleged in the complaint that after selling the property, the first petitioner/A1 has executed a settlement deed on 12.02.2007 in favour of her sons for the entire extent of 3.25 acres. However, the first petitioner/A1 had cancelled the settlement deed on 27.02.2008 and executed another settlement deed in favour of her sons/A2 and A3 for an extent of 2.25 acres on 28.02.2008. It is pertinent to note that already Elumalai and Sundarajan have filed O.S.No.2 of 2008 and has also obtained an interim order of injunction in respect of the property. From a perusal of the materials, it is clear that the first petitioner/A1 has executed a settlement deed in favour of her sons/A2 and A3 for the entire extent of property i.e. 3.25 acres, which amounts to cheating. A1 is not the owner of the property. Though the first petitioner/A1 has cancelled the settlement deed executed in favour of her sons for the entire extent, she has executed another settlement deed for 2.25 acres, which has been already sold by the first petitioner/A1. Investigation in the case is still pending. Hence, at this stage, the proceedings in Crime No.97 of 2013 cannot be quashed since there are prima facie materials against the petitioners. Pendency of a civil suit cannot be ground for quashing of proceedings. That apart, the Honourable Apex Court has made it clear that pendency of a civil suit is not a bar for investigation in criminal cases. In the aforesaid circumstances, this Court is of the view that it is not a fit case for quashing of proceedings in Crime No.97 of 2013 on the file of the first respondent.

Accordingly, the Criminal Original Petition is dismissed.
Consequently, connected miscellaneous petition is closed.
gm

s/d-
Assistant Registrar(CS-III)

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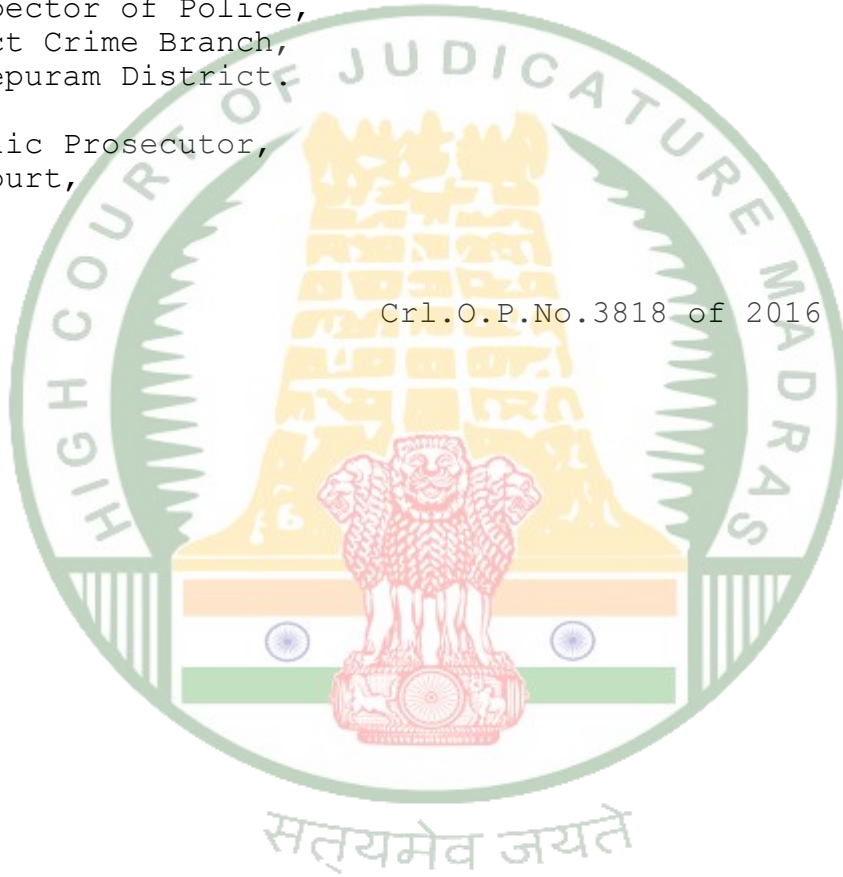
Sub-Assistant Registrar

To

- 1.The Inspector of Police,
District Crime Branch,
Kancheepuram District.
- 2.The Public Prosecutor,
High Court,
Madras.

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