



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 09.03.2016

CORAM:

THE HONOURABLE MR.JUSTICE P.N.PRAKASH

Crl.O.P.(MD) No.2093 of 2016
and
Crl.M.P.(MD) No.1067 of 2016

1.Ayyappan
2.P.Ramu
3.M.Nirmala
4.O.Prema
5.M.Manoharan
6.T.Suresh Kumar
7.R.Valarmathi

... Petitioners / Accused Nos.3 to 9

vs.

1.The State of Rep.by
The Inspector of Police
District Crime Branch
Theni District, Theni

... Respondent / Complainant

2.S.Thatchina Moorthy

... Respondent / De facto Complainant

PRAYER: This petition is, filed under Section 482 Cr.P.C., to call for the first information report in connection with Crime No.16 of 2012, on the file of the Inspector of Police, District Crime Branch, Theni District, and quash the same as illegal and devoid of merits.

For Petitioners : Mr.S.Palanivelayutham
For Respondents : Mr.A.P.Balasubramani
G.A.(Crl.Side)
Mr.P.Ganapathi Subramanian

O R D E R

The petitioners / accused 3 to 9 have filed this criminal original petition, under Section 482 of the Code of Criminal Procedure, seeking quashment of the first information report, registered in Crime No.16 of 2012, on 31.03.2012, for the offences punishable under Sections 406, 467, 417, 420 and 471 I.P.C., on the file of the first respondent Police.

2. On 16.02.2016, this Court has passed the following orders:

"The petitioners / Accused 3 to 9 have filed this criminal original petition, under Section 482 of the Code of Criminal Procedure, to quash the F.I.R., in Crime No.16 of 2012, on the file of the first respondent Police.

2. Mr.K.V.Rajarajan, learned Government Advocate (Criminal Side), takes notice for the first respondent Police and Mr.Ganapathi Subramanian, learned counsel, takes notice for the second respondent / de facto complainant.



3. The few facts, which are necessary for the disposal of this criminal original petition, are as follows:

The second respondent / de facto complainant herein filed a private complaint, under Section 156(3) Cr.P.C., before the learned Judicial Magistrate, Theni, on which the learned Judicial Magistrate issued a direction to the first respondent Police to register a case. Pursuant to the said direction, on 31.03.2012, the first respondent Police registered a case against Tamilselvi, Arunachalam, Ayyappan and 11 other persons. The first respondent Police, after completion of investigation, closed the case as mistake of fact and filed a closure report before the learned Judicial Magistrate, Theni.

4. Thereafter, the second respondent / de facto complainant approached the Superintendent of Police, Theni District, complaining that the first respondent Police had perfunctorily closed the F.I.R., in Crime No.16 of 2012. On that basis, the Superintendent of Police had directed the first respondent Police to re-investigate the matter and hence the first respondent Police filed an application, in Crl.M.P.No.8026 of 2014, before the learned Judicial Magistrate, Theni, seeking re-investigation in Crime No.16 of 2012, and the same was allowed by the learned Judicial Magistrate, on 20.10.2014.

5. Challenging the same, Ayyappan / third accused filed a criminal original petition, in Crl.O.P.(MD) No.20951 of 2014, before this Court and this Court, by a detailed and well considered Order dated 17.08.2015, dismissed the criminal original petition. The relevant portion of the said Order reads as follows:

"8. In such circumstances, after receipt of RCS notice, inspite of approaching the Court, he has given a representation before the Superintendent of Police and on that basis, the prosecution filed an application and obtained the order for reinvestigation. If really, the petitioner, who is A3 herein having right over the property, he may very well produce the documents before the investigating agency to prove the claim. Therefore, I am of the view that the reinvestigation ordered by the trial Court does not warrant any interference and the application deserves to be dismissed.

9. Accordingly, this criminal original petition is dismissed. Consequently, connected M.P.(MD) No.1 of 2014 is also dismissed. The investigating agency is directed to give opportunity to both parties for production of the document and after verifying the same, they shall file final report."

6. Pursuant to the re-investigation of the matter, Ayyappan / third accused was arrested by the first respondent Police and released on bail. Now, Ayyappan and others / Accused 3 to 9 are before this Court seeking quashment of F.I.R., in Crime No.16 of



2012.

7. It is the grievance of the petitioners / Accused 3 to 9 that the first respondent Police is proceeding with the re-investigation ignoring the directions issued by this Court, in CrI.O.P.(MD) No.20951 of 2014, which are extracted above.

8. Per contra, Mr.Ganapathi Subramanian, learned counsel appearing for the second respondent / de facto complainant, has submitted that the very case of the de facto complainant is that the property in question belonged to his father Subbusamy Gowdar, son of Bommaiya Gowdar. The first accused in this case had set up one Subbusamy Servai, son of Balu Servai, as Subbusamy Gowdar and registered a sale deed in her favour and subsequently sold the said property to the petitioners herein.

Therefore, the learned counsel has contended that it is the case of impersonation and there cannot be any property document with the first accused to show that she had purchased the property in question from Subbusamy Gowdar, son of Bommaiya Gowdar.

9. Mr.S.Palanivelayutham, learned counsel for the petitioners / Accused 3 to 9 has submitted that it would suffice, if the respondent Police is directed to consider the documents produced by Ayyappan / first petitioner (A3) before filing final report and therefore he seeks time to get instructions from Ayyappan / first petitioner (A3) as regards the documents, which the Police should see before filing final report and to report the same to this Court.

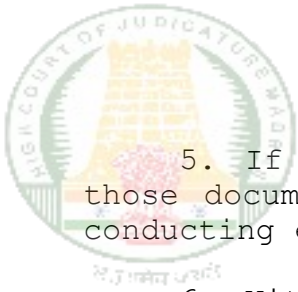
Post on 18.02.2016."

3. Today, when the matter is taken up for hearing, the learned counsel appearing for the petitioners / accused 3 to 9 has produced additional typed set of papers, containing photocopies of the following four documents:

- i. Proceedings, dated 27.01.2015, in Na.Ka.No.9807/2014 A2, issued by the Information Officer, Deputy Tahsildar, Periyakulam.
- ii. Chitta bearing No.2160, issued in favour of V.B.Subbusamy, who is the vendor of Tamilselvi.
- iii. Private complaint, dated 19.11.2015, filed in CrI.M.P.No.7305 of 2015, by the petitioner, before the learned Judicial Magistrate, Theni.
- iv. Representation, dated 11.01.2016, under the Right to Information Act, to the Public Information Officer / Tahsildar, Periyakulam.

In the above four documents, some of the documents are totally illegible.

4. The learned counsel for the petitioners / accused 3 to 9 has furnished copies of the above mentioned four documents to Jasmine Mumtaz, Inspector of Police, attached to the District Crime Branch, Theni District / first respondent, who is the investigating officer, across the bar.



5. If the petitioners / accused 3 to 9 produces the originals of those documents, the investigating officer may look into the same while conducting enquiry and file a final report before the concerned Court.

6. With the above observation, this criminal original petition is disposed of. Consequently, connected miscellaneous petition is closed.

Sd/

Assistant Registrar(R)

/True Copy/

Sub Assistant Registrar.

To

1.The Inspector of Police,
District Crime Branch,
Theni District, Theni.

2.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1CC to M/S.S.Palanivelayutham, Advocate, SR.No. 13989

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and
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AM/AAL.MPA/SAR-I/22.03.2016/4P/4C