



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 28.04.2016

CORAM

WEB COPY

THE HONOURABLE MR. JUSTICE P.N.PRAKASH

Crl.O.P(MD)No.7258 of 2016

and

Crl.M.P(MD)No.3680 of 2016

Kamaraj

... Petitioner/Accused No.1

-vs-

1.State rep. By

The Inspector of Police,
Anti-Land Grabbing Special Cell,
Nagercoil,
Kanyakumari District.

... 1st Respondent/Complainant

2.Rajadurai

... 2nd Respondent/
Defacto complainant

Prayer: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, 1973, to call for the records pertaining to FIR filed in Crime No.87 of 2014 on the file of the Anti-Land Grabbing Special Cell, Nagercoil, Kanyakumari District and quash the same as against the petitioner.

For Petitioner : Mr.V.M.Balamohan Thambi

For R - 1 : Mrs.S.Prabha
Government Advocate (Criminal Side)

ORDER

This Criminal Original Petition has been filed seeking to call for the records pertaining to FIR filed in Crime No.87 of 2014 on the file of the Anti-Land Grabbing Special Cell, Nagercoil, Kanyakumari District and quash the same as against the petitioner.

2. Heard the learned counsel on either side.

3. It is the case of the defacto complainant that he is the owner of the property in Survey No.759/16 measuring 2.34 cents. While so, having purchased the same on 12.01.2006 by way of a registered sale deed Document No.100 of 2006, it is alleged by the defacto complainant that A.1 to A.4 have entered into a conspiracy, by which, they have created a document by pasting the photograph of A.1, dated 29.03.2011 and executed a sale deed which has been registered as Document No.1045 of 2011 in respect of the property belonging to the defacto complainant.



4. The learned counsel appearing for the petitioner submitted that the fourth accused had filed a suit in O.S.No.171 of 2010 on the file of the District Munsif Court, Padmanabhapuram against the defacto complainant in respect of the suit property and a decree has been passed by the learned Principal District Munsif, Padmanabhapuram on 17.03.2011 declaring the title in favour of A4 and therefore, the defacto complainant has no right over the said property.

5. It is seen that the suit in O.S.No.171 of 2010 has been decreed exparte against the defacto complainant. The defacto complainant has also filed an application to set aside the exparte decree and the same has been dismissed.

6. Be that as it may, it is the case of the defacto complainant that he has been impersonated by fixing A1's photo as if A.1 is the defacto complainant and a sale deed has been executed on 29.03.2011. A civil Court decree cannot have the effect of effacing a crime. In this case, there are *prima facie* materials to show that a crime has been committed, whereby A.1 has impersonated the defacto complainant and sold the property. Therefore, the civil Court decree can have no binding effect in a criminal prosecution of this nature.

7. In the result, this is not a fit case to quash the proceedings in the light of the judgment of the Honourable Supreme Court in **State of Haryana V. Bhajan Lal** reported in **AIR 1992 SUPREME COURT, 604**. Hence, this Criminal Original Petition stands dismissed. Consequently, connected Miscellaneous Petition is also dismissed.

Sd/-

Assistant Registrar (Records)

/True Copy/

Sub Assistant Registrar

ps

To

1.The Inspector of Police, Anti-Land Grabbing Special Cell,
Nagercoil, Kanyakumari District.

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

+1CC to Mr.V.M.Bala Mohan Thampi Advocate Sr. No.25055

GJM/17.05.2016-3p-4C

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