

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.06.2017

CORAM

THE HONOURABLE MR.JUSTICE M.V.MURALIDARAN

**Crl.O.P No.22236 of 2011
and
M.P.No.1 of 2011**

- 1.G.R.Sunandamma
- 2.G.B.Umesh
- 3.Nanjundasamy
- 4.Kumarasamy
- 5.Bapanna
- 6.Chandrachory

... Petitioners

- 1.State by Inspector of Police,
District Crime Branch,
Krishnagiri.

vs.

- 2.Sailaja
(R2 impleaded as per order of this Court
dated 23.11.2016 in Crl.MP.No.12515
of 2016 in Crl.OP.No.22236 of 2011)

... Respondents

Prayer: Criminal Original Petitions filed under Section 482 of Cr.P.C., to call for the records in Crime No.24 of 2010 on the file of the Inspector of Police, District Crime Branch, Krishnagiri and quash the investigation thereon.

For Petitioners : Mr.V.V.Sairam
For Respondents : Mr.P.Govindarajan
Additional Public Prosecutor

JUDGMENT

This Petition has been filed by the Petitioners by praying this Court to quash the impugned First Information Report in Crime No.24 of 2010 on the file of the 1st Respondent herein as against the Petitioners.

2.The contention of the counsel for the Petitioners is that the 1st and 2nd Petitioners purchased a land from one Gowramma who is none other than the mother of the Defacto-Complainant vide registered sale deed in Document No.1842/1980 dated 06.09.1980. As the said document was registered in Kerela, the 1st and 2nd Petitioners approached the said Gowramma for registration of the sale before the competent Registrar who is having jurisdiction in respect of the property. When the Defacto-Complainant's mother, the said Gowramma denied to come for registration, the 1st and 2nd Petitioners initiated proceedings before Sub-Registrar of Hosur for compulsory registration. In the said proceedings, she filed counter and finally the sale deed was compulsorily registered on 23.01.1982 after detailed enquiry of the Sub-Registrar of Hosur.

3.The further contention of the counsel for the petitioner is that by feeling aggrieved over the said proceedings, the said Gowramma filed a Writ Petition before this Court in W.P.No.2038 of 1982 by challenging the compulsory registration and the same was dismissed. Against the said order of dismissal, the said Gowramma filed a Writ Appeal before this Court in W.A.No.373 of 1987 and same was also dismissed. Subsequently, after the lapse of 15 years, an indenture was executed by the said Gowramma in favour of the 1st and 2nd Petitioners by receiving a further consideration a sum of Rs.1,77,500/- from them and confirmed the sale as well as gave up her right absolutely. Thereafter, in order to coerce the 1st and 2nd Petitioners for further amount, the said Gowramma filed a suit in O.S.No.277 of 2009 seeking the relief of declaration and the same is contesting by the 1st and 2nd Petitioners.

4.The further contention of the counsel of the Petitioners is that the suit filed by the mother of the Defacto complainant has not achieved any desired result, the instant criminal case has been foisted by the Defacto complainant with inordinate and unexplained delay as if her mother was cheated by the petitioners. According to the counsel for the petitioners that the initiation of the instant criminal proceedings itself is clear of abuse of law. The counsel for Petitioners has relied on the judgment of the

Hon'ble Apex Court reported in **(2010) 3 SCC (Cri) 1091** and the relevant portion for consideration is as follows:

"In cases where there is a delay in lodging an FIR, the court has to look for a plausible explanation for such delay. In the absence of such an explanation, the delay may be fatal. The reason for quashing such proceedings may not be merely that the allegations were an afterthought or had given a coloured version of events. In such cases the court should carefully examine the facts before it for the reason that a frustrated litigant who failed to succeed before the civil court may initiate criminal proceedings just to harass the other side with mala fide intentions or the ulterior motive of wreaking vengeance on the other party. Chagrined and frustrated litigants should not be permitted to give vent to their frustrations by cheaply invoking the jurisdiction of the criminal court. The court proceedings ought not to be permitted to degenerate into a weapon of harassment and persecution. In such a case, where an FIR is lodged clearly with a view to spite the other party because of a private and personal grudge and to enmesh the other party in long and arduous criminal proceedings, the court may take a view that it amounts to an abuse of the process of law in the facts and circumstances of the case."

5. In cases where there is a delay in lodging an FIR, the Court has to look for a plausible explanation for such delay. In the absence of such an explanation, the delay may be fatal. The reason for quashing such proceedings may not be merely that the allegations were an afterthought or had given a coloured version of events. In such cases the Court should carefully examine the facts before it for the reason that frustrated litigant who failed to succeed before the civil Court may initiate criminal proceedings just to harass the other side with mala fide intentions or the ulterior motive of wreaking vengeance on the other party. The Court proceedings ought not to be permitted to degenerate into a weapon of harassment and prosecution.

6. Per contra to the contention of the counsel of the Petitioners, the learned Government Advocate Criminal contended that the initiation of criminal proceedings in respect of fraud, cheating, and criminal intimidation is no way barred by the pendency of the civil proceedings between the parties. It is further contended that the Defacto complainant has lodged the instant complaint that she was intimidated by the Petitioners on 20.10.2010 at about 12.00 p.m. and accordingly, the First Information Report was registered on 22.10.2010. So, there is no delay in lodging the complaint as well as First Information Report in respect of criminal

intimidation even other offences was committed by the Petitioners long back. So, the grounds which are raised by the Petitioners and relying the judgment of Hon'ble Apex Court is not applicable to this case, and hence he prayed for dismissal of the petition.

7. By considering the rival submission of both the sides and perusal of the records, this Court comes to conclusion that the unexplained inordinate delay in lodging a complaint after lapse of nearly about 29 years is to be sufficiently justified the reason for inordinate delay. Further, the proceedings of the compulsory registration have attained finality up to the writ appeal. At the same time, it is brought to the notice of the Court, how the civil suit is also filed and the same is pending before the Court concerned. It seems that the Defacto-Complainant without adverted into the previous facts and legal proceedings has come up with the present complaint.

8. Hence, I am of the view that the First Information Report was lodged with sole intention to harass the Petitioners and enmeshing them in long and ordeal of trial. Further such an action on the part of the 2nd Respondent/Defacto complainant would not be bona-fide and the initiation of criminal proceeding would amount to abuse of process of law. So, the further proceedings of the instant case ought not to be permitted because

of that the same would be used as a weapon of harassment. Moreover, the contention of the FIR has not made out any genuine case.

9. In view of the above said observation, the impugned First Information Report in Crime No.24 of 2010 on the file of the 1st Respondent herein is liable to be quashed, accordingly this Criminal Original Petition is allowed and the impugned First Information Report is quashed. Consequently, connected miscellaneous petition is closed.

Note: Issue order copy on 12.09.2017

Internet : Yes

Index : Yes

vs

To

The Inspector of Police,
District Crime Branch,
Krishnagiri.

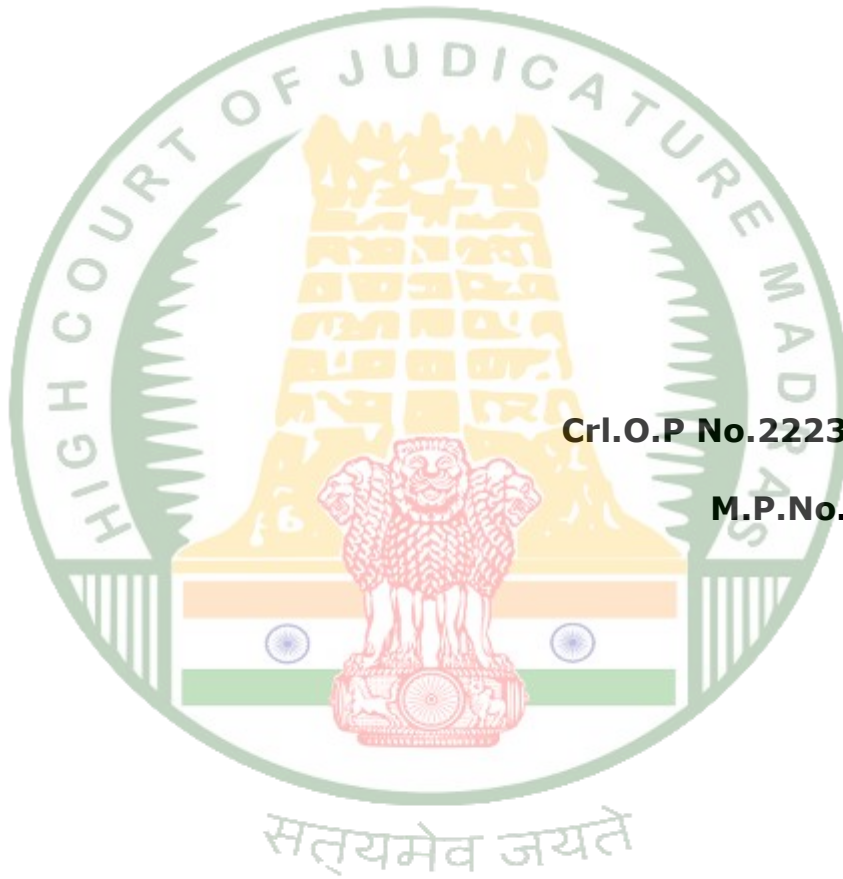
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M.V.MURALIDARAN,J.

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