



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 24.03.2017

CORAM:

THE HONOURABLE MR.JUSTICE P.N.PRAKASH

Crl.O.P. (MD) No.3446 of 2017

and

Crl.M.P. (MD) Nos.2574 and 2575 of 2017

WEB COPY

1.Arockiasamy
2.Kulanthai Thereasa : Petitioners/Accused

-Vs-

1.State Represented by
The Sub-Inspector of Police,
District Crime Branch (DCB) Police Station,
Dindigul District.
In Crime No.130 of 2013.

2.Anthonysamy : Respondents/Complainants
Defacto complainants

PRAYER: Petition is filed under Section 482 of the Criminal Procedure Code praying to call for the records in C.C.No.409 of 2014 on the file of the learned Judicial Magistrate No.II, Dindigul District and quash the same.

For Petitioners : Mr.P.Sivasubramanian
For Respondent No.1 : Mr.A.P.Balasubramani,
Government Advocate (Crl.side)

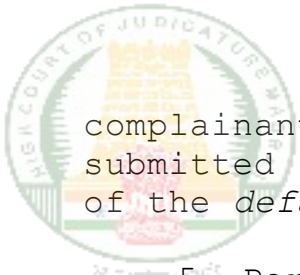
O R D E R

On the complaint lodged by the second respondent, the first respondent police registered a case in Crime No.130 of 2013 and after completing the investigation, has filed a charge sheet in C.C.No.409 of 2014 before the learned Judicial Magistrate No.II, Dindigul against the petitioners herein, challenging which, the petitioners are before this Court.

2. Heard the learned counsel for the petitioners and the learned Government Advocate (Criminal side) appearing for the first respondent.

3. Today, Mr.A.Tamilarasan, Special Sub-Inspector of Police, District Crime Branch, Dindigul, is present in Court.

4. The learned counsel for the accused submitted that the dispute is purely civil in nature, inasmuch as the defacto



complainant does not even have any right to the property. He submitted that the property was not purchased by the grandfather of the *defacto* complainant as alleged in the charge sheet.

5. Per contra, the learned Government Advocate (Criminal side) refuted the said contention.

6. On a reading of the charge sheet, it is seen that the property in question was purchased in a Court auction in the year 1938 by the grandfather of the *defacto* complainant and since then, the property was being held by the family of the *defacto* complainant. While so, Accused No.1 in this case claimed ownership to the property contending that his mother-in-law had given a oral gift to him. On the strength of such a oral gift, Accused No.1 has executed a settlement deed document No.3838/2009 in respect of the said property to his wife/Accused No.2. In other words, the accused had been dealing with the property, over which, *prima facie*, they do not have any title, but, are claiming title by way of a oral gift deed that is said to have been given by the mother-in-law of Accused No.1.

7. Since there are *prima facie* materials in the charge sheet, disputed questions of fact cannot be gone into in a quash petition under Section 482 of the Code of Criminal Procedure. This Criminal Original Petition is devoid of merits and accordingly, the same is dismissed. Consequently, the connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar

/True Copy/

Sub Assistant Registrar

To

1.The Judicial Magistrate No.II,
Dindigul District.

2.-do-Thro' The Chief Judicial Magistrate,
Dindigul.

3.The Sub-Inspector of Police,
District Crime Branch (DCB) Police Station,
Dindigul District.

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

Sml

<https://hcservices.ecourts.gov.in/hcservices> JS/KP/SAB.4/6/04/2017/2p-5c

Order made in

CRL.O.P. (MD) No.3446 of 2017

24.03.2017