



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 19.06.2017

CORAM:

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THE HONOURABLE MR.JUSTICE P.N.PRAKASH

CRL.O.P.(MD)No.7423 of 2017 &
Crl.M.P.(MD).No.5059 of 2017

1.N.Selvam
2.N.Rajagopal
3.V.Amsavalli
4.Kamatchi Ammal

: Petitioners/Accused 1 to 4

-Vs-

1. The State of Tamilnadu,
represented by the
The Inspector of Police,
Land Grabbing Special Cell,
Madurai District,
Madurai.

: 1st Respondent/Complainant

2. N.Velmurugan

: 2nd Respondent/defacto-
Complainant

PRAYER: Petition is filed under Section 482 of the Criminal Procedure Code to call for the records relating to the First Information Report in Crime No.9 of 2015 registered by the first respondent police and quash the same.

For Petitioners : Mr.J.Barathan
For Respondent : Mr.K.Anbarasan for R1
Government Advocate(Crl.Side)

O R D E R

On the complaint lodged by Velmurugan, the first respondent police registered a case in Crime No.9 of 2015 for the offence under Sections 120(B), 406, 420, 465, 466, 468 and 471 IPC against Selvam and 4 others. Challenging which, the accused are before this Court.

2. Heard Mr.J.Barathan, learned counsel for the petitioners and the learned Government Advocate (Criminal Side) for the first respondent.

3. In the First Information Report, it is alleged by the defacto complainant that he was arrested by the Solavanthan Police in connection with Crime No.73 of 1998 and lodged in prison. While



so, when he was in prison on 23.05.1998, his brothers executed a partition deed portioning the properties of their late father, among themselves and allotting him a share. It is his allegation that Satishkumar/A5 had impersonated, son of Selvam/A1, before the Sub Registrar office and executed the partition deed.

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4. Mr.J.Barathan, learned counsel for the accused submitted that the partition deed was executed in the year 1998 and after that the defacto complainant had sold certain portion of the property by claiming right through partition deed and therefore, the prosecution is abuse of process of law.

5. In the considered opinion of this Court, there is a specific allegation in the First Information Report that on 23.05.1998, when the *defacto complainant* was in jail a partition deed has been executed in his name. This requires thorough investigation. In fact, the case diary shows that the police have collected the partition deed and have sent the same to the forensic expert for the opinion. Even if the *defacto complainant* acquiesce, the crime cannot abate.

6. Under such circumstances, there are prima facie materials in the First Information Report. This is not a fit case to quash the First Information Report in the light of the law laid down by the Honourable Supreme Court in **State of Harayana v. Bhajan Lal and Ors.** reported in **AIR 1992 SC 604**. The criminal original petition is dismissed. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (Writs)

/True Copy/

Sub Assistant Registrar

To

1. The Inspector of Police,
Land Grabbing Special Cell,
Madurai District,
Madurai.
2. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+ 1 CC TO Mr.T.R.JAYAPALAM, ADVOCATE IN SR No. 60842

JIKR

TE/KP/SAR-I : 28/06/2017 : 2P/4C