



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 16.03.2017

CORAM

THE HON'BLE MR. JUSTICE G. CHOCKALINGAM

CrI.O.P. (MD) No.21154 of 2016

and

CrI.MP (MD) No.10814 of 2016

1.Muthurakku
2.Karuppusamy
3.Subramaniyan

: Petitioners/A3, A7 and A8

-vs-

1.State through the
Inspector of Police,
District Crime Branch,
Sivagangai.

: Respondent/ Complainant

2.Amirtharajan

: Respondents/De-facto Complainant

Prayer: Criminal Original Petition is filed under Section 482 of the Criminal Procedure Code, to quash the FIR in Crime No.13 of 2016 registered by the DCB Police, Sivagangai, dated 25.04.2016.

For Petitioners : Mr.N.S.Ponnaiah

For 1st Respondent : Mr.C.Ramesh

Additional Public Prosecutor

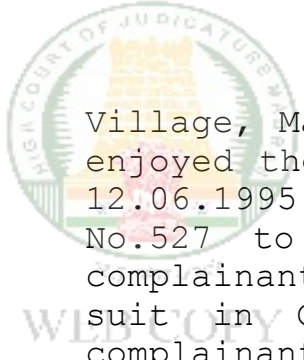
For 2nd Respondent : Mr.R.Uthayakumar

O R D E R

This petition has been filed to quash the FIR in Crime No.13 of 2016 registered by the DCB Police, Sivagangai, dated 25.04.2016.

2.The de-fact complainant has lodged a complaint before the 1st respondent police stating that the accused conspired to cheat the de-facto complainant by registering a sale deed in favour of the third accused on 12.08.2015, by a sale deed No.383/15 in respect of the land comprised in Survey No.106/2 of Theli Group, Thappaliyenthal village, Thiruppuvanam Taluk, which was purchased by his wife from one Periyasamy on 12.06.1995.

3.The learned counsel appearing for the petitioners would submit that the first petitioner has purchased the land in Survey No.106/2 to an extent of 1 acre 49 cents in Theli Group, Madapuram Hamlet of Manjaludi Village from M.Poomail and her three sons on 12.08.2015 and that the de-fact complainant and his wife had purchased property comprised in Survey No.106/2 to an extent of 1 acres 50 cents in Theppaliyenthal Village, Hamlet of Madapuram



Village, Manamadurai Taluk, Sivagangai District and they had never enjoyed the portion of the land mentioned in the sale deed, dated 12.06.1995 and that the Revenue Authority has allotted Patta No.527 to the petitioners, whereas the wife of the de-facto complainant got patta No.199 and that the first petitioner filed a suit in O.S.No.68 of 2016 against the wife of the de-facto complainant and the same is pending before the District Munsif court at Manamadurai. It is further submitted that there is no criminal intention established against the petitioners as alleged in the FIR filed in Crime No.13 of 2016 and that the dispute between the parties are civil in nature, but it was given as a criminal colour and that the first petitioner is the genuine purchaser from the family members of Periyasamy, after his death on 14.09.1996 and the other two petitioners are only the attestors in the document, dated 12.08.2015 purchased by the first petitioner. In view of that, he prayed that the FIR filed in Crime No.13 of 2016 has to be quashed.

4.The learned counsel appearing for the 2nd respondent would submit that the 2nd respondent and his family members are enjoying the property for more than 20 years and that when they took efforts to fence the property, the 1st accused interfered and demanded the title to that land and that after the death of the Periyasamy, all the accused conspired together and created a fraudulent release deed and also obtained patta on 31.03.2015 from the Tashidhar, Thirupuvanam and on the basis of the above documents, a fraudulent sale deed was registered on 27.08.2015 and that all of them jointly created the fraudulent release deed, fraudulent sale agreement, fraudulent sale deed for the short period from 03.03.2015 to 27.08.2015. Hence, he prayed for the dismissal of the petition.

5.The learned Government Advocate (Criminal side) appearing for the 1st respondent would submit that based on the complaint given by the de-facto complainant, a case in Crime No.13 of 2016 was registered and the same is under investigation. Hence, he prayed for the dismissal of the petition.

6.Heard both sides and perused the materials available on record.

7.According to the de-facto complainant, his wife purchased the property comprised in Survey No.106/2 by way of registered sale deed from one Periyasamy and after the purchase, they have been enjoying the same for more than 20 years and when they wanted to put up a fence, it was objected by the first petitioner by demanding the title and he has also stated that the sale deed in respect of the property is in his favour.

<https://hcservices.ecourts.gov.in/hcservices/>

8.It is seen from the records that on 04.09.1996, Periyasamy died and after that, on 03.02.2015 one Muruki, Poomayil



obtained legal heirs certificate from the Thasildhar, Thiruppuvanam and on that basis, Muruki executed a release deed in favour of Poomayil and the same was registered before the Sub Registrar, Thiruppuvanam in the year 2015 and in the said release deed, the 1st petitioner signed as one of the witnesses and thereafter, patta was also obtained on 31.03.2015.

9. Further, it is seen from the records that on the basis of the release deed and patta, a sale agreement was executed in favour of the 1st petitioner and the same was registered on 27.08.2015, in which the petitioners 2 and 3 signed as witnesses. The said transactions were took place between the period 03.03.2015 and 27.08.2015. In view of the above circumstances, the de-facto complainant preferred a complaint and based on the direction of the Judicial Magistrate No.II, Sivagangai, a case in Crime No.13 of 2016 was registered under Sections 468, 471, 120(b) IPC and the case is under investigation.

10. It is to be noted that the 1st petitioner filed a suit against the de-facto complainant and his wife and others in O.S.No.68 of 2016 for declaration that the sale deed, dated 12.06.1995 is null and void and for permanent injunction and the said suit is still pending.

11. In view of the above circumstances, this court is of the considered view that whether the petitioners have committed offence as alleged by the prosecution is true or not is the issue to be decided only after full fledged trial and it cannot be decided in this quash petition, since prima facie materials are available against the petitioners. Hence, the relief sought for by the petitioners cannot be granted at this stage.

12. In the result, this petition is dismissed. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar (Records)

/True copy/

Sub Assistant Registrar

To:

1. The Inspector of Police,
District Crime Branch, Sivagangai District.
 2. The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai
- +1 CC to M/s.R.UDHAYAKUMAR, Advocate, SR No. 16046
ER
PSM/RSK-SKN/24.03.2017/3P/4C

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