



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 03.04.2017

CORAM:

THE HON'BLE MR.JUSTICE P.N.PRAKASH**Cr1.O.P. (MD)No.2694 of 2013**

S.Murugan

... Petitioners/A9

-vs-

1. The State represented by
The Inspector of Police,
District Crime Branch,
Trichy.

... 1st Respondents/Complainant

2. M.Murugan ... 2nd Respondents/Defacto Complainant
Prayer : Criminal Original Petition is filed under Section 482 of
the Code of Criminal Procedure praying to call for the records on
the file of the 1st respondent pertaining to the FIR in Cr.No.15
of 2010 dated 22.11.2010 registered against the petitioner and
quash the same as far as the petitioner is concerned.

For Petitioner : Mr.M.Siddharthan

For R1 : Mr.A.P.Balasubramani
Govt. Advocate (Crl.Side)

For R2 : Mr.N.Shankar Ganesh

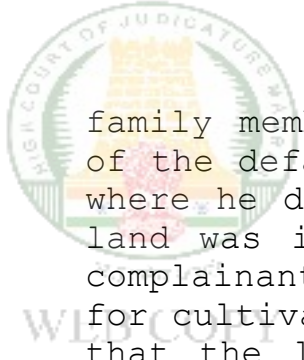
ORDER

This petition has been filed, seeking to call for the records on the file of the 1st respondent pertaining to the FIR in Crime No.15 of 2010 dated 22.11.2010, registered against the petitioner and quash the same as far as the petitioner is concerned.

2. On the complaint lodged by the 2nd respondent, the 1st respondent registered a case in Crime No.15 of 2010 on 22.11.2010 under Sections 419, 420, 465 and 468 IPC against nine accused, challenging which, A9 is before this Court.

3. Heard the learned counsel for the petitioner/A9, learned Government Advocate (Crl.Side) appearing for the State and the learned counsel for R2. Mr.P.Abdul Gapoor, Inspector of Police, DCB, Trichy District is present.

4. It is the case of the defacto complainant that the land measuring to an extent of 3 acres and 20 cents in Ayyampalayam village, Mandanallur Taluk, originally belonged to one Mookan. Since the land became un-cultivable, the said Mookan and his



family members handed over the same to one Kathirvel / the uncle of the defacto complainant. Subsequently, Mookan left to Srilanka, where he died in the year 1980. After the death of Kathirvel, the land was in occupation of one Marimuthu / father of the defacto complainant. When the defacto complainant went to the said land for cultivation purpose, he was not permitted by A9, on the ground that the land has been purchased by him. Therefore, the defacto complainant made a search in the office of Sub-Registrar, Srirangam and learnt that Mookan/A1, who is the name sake of the deceased Mookan claimed himself to be the owner of the said land and in connivance with A2 to A8, sold the said land to A9. On coming to know of this, the defacto complainant lodged the present complaint, which is under challenge in this quash petition.

5. Learned counsel for the petitioner/A9 submitted that even before registration of FIR, the petitioner had filed a suit in O.S.No.147 of 2009 before the District Munsif, Lalgudi against the defacto complainant for declaration of title and the consequent injunction in respect of the property in question.

6. Learned counsel for the defacto complainant submitted that O.S.No.147 of 2009 was dismissed for default on 08.02.2013.

7. On instructions, learned Government Advocate (Crl.Side) submitted that the investigation of the case is under progress in order to find out the death of Mookan in Srilanka and a requisition has been given by the Police through the Indian Embassy for certain details and the same is awaited.

8. This Court gave its anxious consideration to the rival submissions.

9. According to the defacto complainant, the land in question belonged to one Mookan, who is said to have died in Srilanka and that A1 claiming himself to be the original Mookan had executed a sale deed along with A2 to A8 in favour of the petitioner/A9 in the year 2009. Admittedly, even before registration of the FIR, the petitioner/A9 has filed a suit for declaration in O.S.No.147 of 2009 against the defacto complainant.

10. The scope of investigation in this case is whether the land in question originally belonged to Mookan, who is said to have died in Srilanka in the year 1980 and whether A1 to A8 had illegally sold the land to A9, claiming themselves to be the owners of the said land. Since the investigation is in progress, this is not a fit case for quashing the prosecution at this juncture. However, during the course of investigation, if it is found that the petitioner/A9 is an innocent purchaser, it is needless to state that further action against him should be

11. With the above observation, this petition is closed



with a direction to the respondent police to complete the investigation in Crime No.15 of 2010 expeditiously. It is made clear that whatever is observed above is only for the purpose of deciding this petition alone and the Trial Court shall proceed with the trial uninfluenced by anything stated hereinabove.

WEB COPY

Sd/-

Assistant Registrar(CS-I)

/True Copy/

Sub Assistant Registrar

To:

1. The Inspector of Police,
District Crime Branch,
Trichy.
2. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1cc to Mr.N.SHANKAR GANESH Advocate in SR. No.19141

+1cc to Mr.M.SIDDHARTHAN Advocate in SR. No.50168

AR

JS/RKS/4.05.2017/3P-5C

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2/2

03.04.2017