

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated 06.12.2018

CORAM

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

Crl. OP. No.24980 of 2009 and
MP Nos.1 to 1 of 2009

1. T.N.Chandrasekar

2. Thilagavadi ... Petitioners

Vs.

1. State rep. by
Inspector of Police (L&O),
Thiruvanmiyur Police Station,
Chennai - 41.

2. Somasundaram ... Respondents

Prayer: This petition is filed under Section 482 of Criminal Procedure Code to call for records in CC No.8873 of 2002 on the file of the IX Metropolitan Magistrate, Saidapet, Chennai and quash the same.

For Petitioner :Mr.V.Krishnamoorthy

For Respondents:Mr.T.Shunmuga Rajeswaran
Government Advocate (Criminal Side)
for R1

ORDER

The petitioners before this Court are accused nos. 1 & 3 in C.C.No.8873 of 2002 on the file of the IX Metropolitan Magistrate, Saidapet, Chennai, which was instituted on the basis of the order passed by the District Collector, Chennai, cancelling the patta issued in favour of the accused. In order to quash the said Calender Case, the present criminal original petition came to be filed.

2. The case of the prosecution is that the lands in S.Nos.174/36A and 174/36B were allotted in favour of the defacto complainant's son by the Government, vide order dated 06.06.1969. Alleging that the accused persons, using some forged

documents, had obtained patta in their favour in respect of the subject property, the defacto complainant has made a representation before the District Collector, Chennai and the District Collector, vide order dated 11.01.2001, cancelled the patta which stood in the name of the petitioners. Thereafter, the defacto complainant has lodged the present complaint before the respondent Police in Crime No.308 of 2002, followed by which, charge sheet has been filed as against this petitioners and others for the offence punishable under Sections 420, 465, 468 & 471 read with Section 34 IPC.

3. According to the petitioners, the District Collector, Chennai, without properly considering the merits of the case, has passed an order cancelling the patta, which stood in their favour and therefore, they had filed a revision petition before the Commissioner of land Administration, Chennai and the Commissioner, vide order dated 18.10.2005, set aside the order of the District Collector and thereby, the patta was ordered to be restored in the name of the petitioners. It is the further case of the petitioners that the criminal proceedings was initiated based on the order of the District Collector and since the order of the District Collector itself was quashed, the criminal proceedings is also liable to be quashed.

4. This Court finds some force in the submission made by the learned Counsel for the petitioners. When the order of the District Collector, which speaks about the fraud committed by the petitioners, was quashed, allowing the present complaint, which rests upon the District Collector's order, to proceed further is not proper and therefore, this Court was about to allow the criminal original petition. However, the learned Government Advocate sought time to verify as to whether the order of the Commissioner of Land Administration has been put into challenge before this Court. Therefore, the matter was adjourned.

5. Today, when the matter is taken up for consideration, none appeared on behalf of the 2nd respondent / defacto complainant. The learned Government Advocate, after verification, submitted that no appeal has been filed as against the order of the Commissioner of Land Administration and the same has attained finality.

6. Under these circumstances, it will not be proper to allow the entire proceedings to proceed further, when the order of the District Collector itself, on the basis of which the present complaint has been instituted, has been set-aside by the competent Appellate authority. In such a view of the matter, CC No.8873 of 2002 on the file of the IX Metropolitan Magistrate,

Saidapet, Chennai stands quashed and this petition is accordingly, allowed. Consequently, the connected miscellaneous petition is also closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

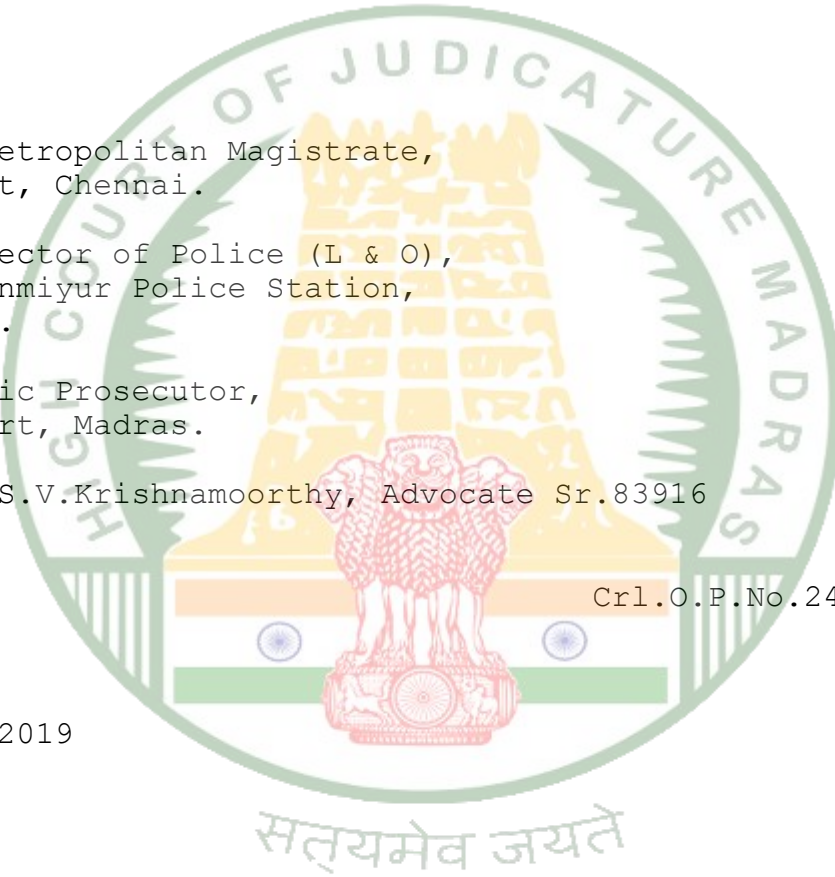
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To

- 1.The IX Metropolitan Magistrate,
Saidapet, Chennai.
- 2.The Inspector of Police (L & O),
Thiruvanmiyur Police Station,
Chennai.
- 3.The Public Prosecutor,
High Court, Madras.

+1cc to M/S.V.Krishnamoorthy, Advocate Sr.83916

Cr1.O.P.No.24980 of 2009

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srg 26/02/2019



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