

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 06.07.2018

DELIVERED ON: 16.07.2018

CORAM :

THE HONOURABLE Mrs. JUSTICE R. HEMALATHA

Crl.O.P.No.4239 of 2015 and

Crl.O.P.No.5979 of 2015

and

Crl.M.P.No.1 of 2015

K.Dilli Babu ... Petitioner/ 5th Accused
(In Crl.O.P.No.4239 of 2015)

1. P.J.Pandian
2. P.J.Nagarajan
3. P.J.Arun
4. P.J.Adhithan

... petitioners/1 to 4 accused
(in Crl.O.P.No.5979 of 2015)

Vs.

1. State represented by
The Inspector of Police,
E-1, Ponneri Police Station,
Thiruvallur District
(Crime No.510 of 2014)

... 1st Respondent/ Complainant
(In Crl.O.P.No.4239 & 5979 of

2015)

2. P.K.Elavarasan

... 2nd Respondent/de-facto
complainant
(In Crl.O.P.No.4239 & 5979 of 2015)

Prayer in both the petitions: Criminal Original Petition filed under Section 482 of Cr.P.C to call for the records and quash the proceedings in Crime No.510 of 2014 dated 13.09.2014 under Section 465, 466, 468, 471 read with 120(b) of the Indian Penal Code on the file of the Inspector of Police, E1, Ponneri Police Station, Thiruvallur District.

For Petitioner in
(Crl.O.P.No.4239 of 2015) : Mr.M.Gnanasekar

For petitioners in
(Crl.O.P.No.5979 of 2015) : Mr. R.Sreerangan

For 1st Respondent in : Mr.T.Shunmugarajeswaran
(Crl.O.P.No.4239 & 5979 of 2015)

For 2nd Respondent in : Mr.M.Radhakrishnan
(Crl.O.P.No.4239 & 5979 of 2015)

Common ORDER

The two petitions in Crl.O.P.No.4239 of 2015 and 5979 of 2015 are filed for quashing the First Information Report in Crime No.510 of 2014 of El, Ponneri Police Station, Thiruvallur District.

2. The petitioners in Crl.O.P.No.5979 of 2015 are brothers and sons of one late P.S.Jayaraman and belong to Peravallur Village of Ponneri Taluk, Thiruvallur District. The petitioner (Dillibabu) in Crl.O.P.No.4239 of 2015 is the advocate, who had drafted the general power of attorney dated 26.08.2014 on behalf of petitioners 1 to 3 favouring the 4th petitioner, regarding the property in Survey No.127/1B of Peravallur Village, Ponneri Taluk, Thiruvallur District. The de-facto complainant Mr.P.K.Ilavarasan is an advocate by profession residing in Peravallur village and has claimed that his agricultural land in survey No.127/1B of Peravallur village, Ponneri Taluk, Thiruvallur District measuring 0.40 cents is under his possession and crops are being raised by him in the said land. According to him, he had purchased the said piece of land from one Varathamani w/o P.S.Jeyaraman on 10.06.2013 vide document No.758/4 of Ponneri Sub Registrar office and when he approached the Sub Registrar office for an Encumbrance Certificate, it was found that on 26.08.2014, the petitioners 1 to 3 had executed a power of attorney in favour of 4th petitioner and the said power of attorney was prepared by the 5th accused (petitioner in Crl.O.P.No.4239 of 2015) and was registered as P/40/2014 of Sub Registrar, Ponneri. He has alleged that the said persons had conspired to usurp his land by means of falsely declaring that the land belong to them and that the 5th accused who is an advocate is also a party to the conspiracy. The Inspector of Police, El Ponneri Police Station, Thiruvallur District took up the complaint and registered a First Information Report in Crime No.510 of 2014.

3. The petitioners 1 to 4, who are brothers and also the legal heirs of late P.S.Jayaraman contended that they had inherited this property from their late father P.S.Jayaraman, who expired on 03.12.1990. Late Manickammal, w/o P.S.Jayaraman and mother of petitioners 1 to 4 (accused No.1 to 4) expired on 08.08.2007, consequent upon which, the legal heirship certificate in Tha.Pa.No.4930/2011/A4 dated 23.11.2011 was issued to the petitioners 1 to 4 by Tahsildar, Ponneri. It is also contended by the petitioners that for the sake of convenience, the petitioners 1 to 3 executed a power of attorney in favour of the 4th petitioner (their youngest brother) and the power of attorney was handed over to the Sub Registrar Office, Ponneri for registration.

4. The petitioner (Dillibabu) in CrI.O.P.No.4239 of 2015, who is the advocate and who drafted the power of attorney, has contended that he was only a professional roped into complete the formalities of Power of Attorney and cannot be charged for any of the offences alleged against him in the complaint.

5. The stunning revelation by the petitioners 1 to 4 is that the de-facto complainant, who is also an advocate by profession pre-empted any action against him by giving police complaint and diverting the issue. As a matter of fact, he had committed a fraud by bringing in one Varadamani, who is the wife of Elumalai, as the wife of late P.S.Jayaraman, in whose name patta was issued for the said property. He took advantage of his knowledge about the ownership of the said property, since late P.S.Jayaraman was his paternal uncle, elder brother of his father P.S.Kumar and the said property was a part of the partitioned property in an oral partition amongst the brother of late P.S.Jayaraman. The case of the petitioners 1 to 4 is that the de-facto complainant systematically planned to illegally take the title of the property by making one Varadamani, as the wife of late P.S.Jayaraman, father of the petitioners 1 to 4 and manipulating the Election Identity card of the said Varadamani to show that she was the wife of late P.S.Jayaraman. A perusal of the voter list of the year 2011, Ponneri Assembly Constituency, reveals that the said Varadamani is the wife of one Elumalai residing at No.4/7, Kattavur Mannadi Street, Keelcolony. Whereas, the legal heirship certificate dated 23.11.1941 clearly shows that P.J.Manickammal as the wife of P.S.Jayaraman. The Election Identity Card number of the said Varadamani is seen as TN/04/016/00844321, which shows her husband name as Elumalai in the 2011 voter's list, whereas the Election Identity Card number of late Manickammal is seen as TN/04/016/1318107. It has also been reported by the Revenue Inspector of Ponneri on 18.07.2015 that the said Varadamani had changed her husband's name as Jayaraman in the 2014 list of

voters. It is also evident that she is drawing old age pension vide OAP No. PNI/IGNWPS/7944, as the wife of Elumalai, as is seen from the statement of Village Administrative Officer, No.43, Kattavoor. The manipulated Identity card of Varadammal bears the same number with the change in the husband's name mentioned as P.S.Jayaraman. This deliberate manipulation has been confirmed by the individual reports of Revenue Inspector and the Village Administrative Officer. Even assuming the contention of the de-facto complainant that the said property belongs to him, the act of the petitioners 1 to 5 of preparing a power of attorney in favour of the 4th petitioner can in no way be construed as illegal, as the power of attorney not only remained unregistered but also was not used for conveying the title of the property. On the other hand, a bare perusal of the sale deed executed by the said Varadamani in favour of the de-facto complainant clearly shows that the property does not belong to Varadamani w/o Elumalai and Varadamani is no way related to late P.S.Jayaraman or the petitioners 1 to 4 .

6. The police by accepting the complaint of the de-facto complainant namely P.K.Ilavarasan, ought to have properly investigated the case, after registering the First Information Report and considered the facts revealed by the petitioners 1 to 4. In fact, the counter complaint given by the petitioners has not even been taken to file by the police. The criminal intent of the de-facto complainant being so glaring, the police have acted in a high handed manner causing huge damage to the reputation of the petitioners 1 to 5. The first petitioner, who was in a responsible position in the Institute of Road Transport, Chennai, was placed under suspension, just on the date of his superannuation, due to this pending criminal case in El Ponneri Police Station. as in today's world, the righteous had to run from pillar to post for a serious fraud committed by another person, who was blindly supported by the police. The act of the police is condemnable and the police officials involved in this are reprimanded by this court. This court also direct the Superintendent of Police, Thiruvallur to nominate a competent Inspector of police to investigate the complaint given by the petitioners 1 to 4, after registering a First Information Report. The investigation should be monitored by a Deputy Superintendent of Police and the investigation also should be completed within a period of 3 months, from the date of receipt of a copy of this order. The 5th petitioner, who is an advocate, has been dragged into this deliberately by the de-facto complainant to sensationalize the entire case. It is evident that the 5th petitioner had only drafted the power of attorney and it was very much part of his profession, for which he is no way responsible. Inview of all these reasons stated by me, I hold that the entire proceedings in Crime No.510 of 2014 of El, Ponneri Police Station, Thiruvallur District is liable to

be quashed.

7. In the result, this Criminal Original petition is allowed and the proceedings in Crime No.510 of 2014 of E1, Ponneri Police Station, Thiruvallur District is quashed. This court directs the Superintendent of Police, Thiruvallur to nominate a competent Inspector of police to investigate the complaint given by the petitioners 1 to 4, after registering First Information Report. The investigation should be monitored by a Deputy Superintendent of Police and the investigation also should be completed within a period of 3 months, from the date of receipt of a copy of this order. The connected criminal miscellaneous petitions are closed.

Sd/-
Assistant Registrar (CS-VI)

//True Copy//

Sub Assistant Registrar

mst

To

1. The Superintendent of Police,
Thiruvallur.
2. The Deputy Superintendent of Police,
Thiruvallur.
3. The Inspector of Police,
E-1, Ponneri Police Station,
Thiruvallur District .
4. The Public Prosecutor,
Madras High Court.

+1cc to Mr.M.RADHAKRISHNAN, Advocate, S.R.No.46647
+1cc to Mr.R.SREERANGAN, Advocate, S.R.No. 46458
+3cc to Mr.M.Gnanasekar Advocate, S.R.No. 46511
(09/08/2018)

CrI.O.P.No.4239 of 2015 &
CrI.O.P.No.5979 of 2015

CP(CO)
TR(27/07/2018)