

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.02.2019

CORAM:

THE HONOURABLE MR. JUSTICE N.ANAND VENKATESH

Crl.O.P.No.2133 of 2014

&

Crl.M.P.No.2148 of 2019

Syed Peer Shah Mohideen Khaderi
@ S.P.Shah

.. Petitioner

vs

1.State Rep. By
The Inspector of Police,
District Crime Branch,
Sathuvachari, Vellore
(Crime No.37/2012)

2.M.Dhamodaran

.. Respondents

PRAYER: This Criminal Original Petition has been filed under Section 482 of Criminal procedure Code, praying to call for the records in Crime No.37 of 2012 on the file of the 1st respondent police and quash the First Information Report against the petitioner herein.

For Petitioner : Mr.P.M.Duraiswamy

For Respondents : Mr.M.Mohammed Riyaz
Addl. Public Prosecutor for R1

Mr.a.Rajeshkanna, for R2

ORDER

When the matter came up for hearing on 22.11.2018, the learned Additional Public Prosecutor submitted that the respondent Police completed the investigation and will file a final report within a period of three months. Recording the same, this Criminal Original Petition was closed.

2.Subsequently, the learned counsel for the petitioner made a mention before this Court and submitted that the entire criminal proceedings are abuse of process of law and various important facts and the documents were not brought to the notice

of this Court. While passing the order, the learned counsel submitted that the case was projected as if the petitioner had prepared fake patta and is claiming right over the property and the same needs to be investigated by the police. The learned counsel submitted that a glance at the unimpeachable documents that have been filed before this Court clearly show that the entire criminal proceedings are an abuse of process of law.

3.The learned counsel for the petitioner brought to the notice of this Court the proceedings by the RDO, Ranipet, dated 21.03.1999 wherein the patta that was granted in favour of subsequent purchasers viz., Vadivel and K.Balakrishnan was cancelled. This order was subsequently confirmed in appeal by the DRO, Vellore. Subsequently, the said Balakrishnan died and his legal heirs viz., Indira and two others claimed that the property belongs to them and also filed a suit in O.S.No.18 of 2005 before the Sub Court, (Wakf's Tribunal), Vellore against the Wakf.

4.While so, the petitioner, who is the Hereditary Muthawalli for the said properties, filed a suit seeking for bare injunction in O.S.No.130 of 2000 against Nawab Ali Khan and others and an order of interim injunction was also granted by an order dated 27.04.2000 and the application itself was allowed by an order dated 29.08.2002.

5.The learned counsel by pointing out the above proceedings submitted that the defacto complainant who claims to have taken a power of attorney from the legal heirs of Balakrishnan, has now preferred the present complaint, based on which, an FIR has been registered by the respondent police.

6.This Court carefully considered the submissions made on either side and also materials placed on record.

7.In view of the fact that the patta that was granted in favour of the subsequent purchasers through whom the present legal heirs are claiming right was cancelled and the entire issue is at large before the competent Civil Court, the present FIR that was registered by the respondent police is nothing but an abuse of process of law. Till the rights of the parties are determined before the competent Civil Court, there is no question of any creation of false documents and cheating committed by the petitioner. This important factor was not noticed at the time of closing this Criminal Original Petition.

8.Since this Court did not pass any orders on merits, Section 362 of Cr.P.C. will not come into play and this order will not amount to reviewing the earlier order passed by this Court. In view of the above, the Criminal Miscellaneous Petition

is allowed and the earlier order passed by this Court on 22.11.2018, is recalled.

9.In the result, the First Information Report in Cr1.O.P.No.37 of 2012 on the file of the respondent Police, is hereby quashed and accordingly, this Criminal Original Petition is allowed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

kal

To

1. The Inspector of Police,
District Crime Branch,
Sathuvachari, Vellore.

2. The Public Prosecutor,
High Court, Madras.

+1 cc to Mr.P.M.Duraiswamy, Advocate Sr.No.12983

Cr1.O.P.No.2133 of 2014
&
Cr1.M.P.No.2148 of 2019

VD(CO)
CSL/07.03.2019