

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.07.2018

CORAM:

THE HON'BLE MR. JUSTICE P.N. PRAKASH

Crl.O.P.No.15692 of 2018 & Crl.M.P. No.8028 of 2018

S. Varadarajan

...Petitioner

vs.

1 The State represented by
the Inspector of Police
Uthangarai Police Station
Uthangarai Taluk
Krishnagiri District

2 The Sub-Registrar
Uthangarai Sub-Registrar Office
Uthangarai Taluk
Krishnagiri District

...Respondents

Criminal Original Petition filed under Section 482 of Cr.P.C. seeking to call for the records in Cr. No.133 of 2018 dated 26.03.2018 pending on the file of the first respondent and to quash the same.

For petitioner :Mr.T.Mohan,
for Mr.P.Muthusamy

For respondents:Mrs.P.Kritika Kamal,
Govt.Advocate (Crl. Side)

ORDER

This Criminal Original Petition has been preferred seeking to call for the records in Cr. No.133 of 2018 dated 26.03.2018, pending on the file of the first respondent and to quash the same.

2. On the complaint lodged by the Sub-Registrar, Uthangarai, the second respondent, the first respondent police have registered a case in Cr.No.133 of 2018 on 26.03.2018 under Sections 420,465,468,471 & 477-A IPC against Varadarajan, seeking quashment of which, this Criminal Original Petition has been preferred.

3.Heard Mr. T. Mohan, learned counsel for the petitioner and Mrs.Kritika Kamal P., learned Government Advocate (Crl. Side) appearing for the respondents.

4.On a reading of the FIR, it is seen that it is alleged by the de facto complainant that the property in question measuring 2½ cents originally belonged to Varadarajan; the said property was acquired by the Highways Department and even compensation was paid to Varadarajan. Thereafter, the said Varadarajan wrote a settlement deed bearing no.2753 of 2015 registered in the Sub-Registrar Office, Uthangarai, in respect of his properties, including the property in question in favour of his son, Suresh Kumar. On coming to know of this, the Sub-Registrar, Uthangarai, has given a complaint based on which, the FIR has been registered.

5.Mr. Mohan, learned counsel representing Mr. P. Muthusamy, learned counsel on record for the petitioner submitted that the petitioner had inadvertently included the extent of 2 ½ cents in the settlement deed and that he is ready and willing to rectify the mistake. He further submitted that even before the registration of the FIR, the petitioner had given a rectification deed which was not registered by the Sub-Registrar's Office.

6.On the direction issued by this Court on 19.06.2018, today, Mr.P. Soundrarajan, Sub-Registrar, Uthangarai, is present before this Court. Mr.Ramamurthy, Inspector of Police, Uthangarai P.S. is also present.

7.On instructions, the learned Government Advocate (Crl. Side) submitted that a rectification deed cannot be accepted, because, even at the inception, the petitioner did not have the title to the said property since the property had already been acquired by the Highways Department and hence, the only remedy available to the petitioner is to cancel the entire deed and register a fresh deed.

8.Mr. Mohan, learned counsel, submitted that there is no mens rea inasmuch as the inclusion of the said property by the petitioner in the settlement deed was on account of sheer inadvertence.

9.In the opinion of this Court, mens rea cannot be gone into in an application under Section 482 Cr.P.C. Prima facie, there are materials to show that the petitioner has included the property that was acquired by the Highways Department in the settlement deed executed in favour of his son Suresh Kumar. This Court cannot issue a direction under Section 482 Cr.P.C. to the Sub-Registrar to accept the rectification deed in violation

of the Registration rules. It is always open to the petitioner to work out his remedy in the manner known to law. Since there are prima facie materials against the petitioner, the facts obtaining in this case do not pass muster the law laid down by this Court in State of Haryana and others vs. Bhajan Lal and others [1992 Supp (1) SCC 335].

In the upshot, this Criminal Original Petition is dismissed. Connected Crl.M.P. is closed.

Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

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To

1. The Inspector of P olice
Uthangarai Police Station
Uthangarai Taluk
Krishnagiri District
2. The Sub-Registrar
Uthangarai Sub-Registrar Office
Uthangarai Taluk
Krishnagiri District
3. The Public Prosecutor
High Court of Madras
Chennai 600 104

सत्यमेव जयते

Crl.O.P.No.15692 of 2018

EV (CO)
BM 25/07/2018

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