

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 03.07.2018

DELIVERED ON: 24.07.2018

CORAM :

THE HONOURABLE Mrs. JUSTICE R. HEMALATHA

Crl.O.P.No.29656 of 2013

and

Crl.M.P.Nos.1 of 2013

Syed Omer ... Petitioner

//vs//

1. State Rep by
The Sub-Inspector of Police,
Team 18A, Central Crime Branch,
Chennai. ... 1st respondent/complainant

2. L.Ramachandran ...2nd respondent/de-facto
complainant

Prayer : Criminal Original Petition filed under Section 482 of
Cr.P.C to call for the records and quash the First Information
Report in Crime No.11/12 on the file of the 1st respondent
police.

For Petitioner : Ms.G.Daisy John

For 1st Respondent : Mr.T.Shunmugarajeswaran,
Government Advocate (Crl.Side)

For 2nd respondent : Mr.V.P.Sengathirvel

ORDER

The petitioner is the first accused in Crime No.11/2012
of the Central Crime Branch, Team 18A, Chennai.

2. The petitioner Syed Omer s/o late A.P.M.S.Mohamed
Ali aged 67 years has filed the present petition to call for the
records in Crime No.11 of 2012 of Central Crime Branch, Chennai
and to quash the same.

3. The 2nd respondent/de-facto complainant Mr.L.Ramachandran in his complaint dated 28.05.2010 has alleged that his ancestral properties in Survey Nos.576/1, 575, 576/1, 576/2 and 577/4 of Vallur Village, Ponneri Taluk, Thiruvallur District to the total extent of 2.10 acres are in his and his family members' possession and that pattas also stand in their name. The said complaint also states that a public notice in the Hindu News paper dated 31.08.2008, issued on behalf of the father of the accused cautioning the public that his son i.e. the petitioner Syed Umer had fraudulently created a settlement deed in his (petitioner's) favour vide document No.4985 of 2008 of Sub Registrar Office, Thiruvotriyur, without his knowledge and consent and that any one dealing with the petitioner / accused No.1 and his wife Faridha Omer will be doing at their own risk. The de-facto complainant further alleged that the father of the petitioner, who claims to be the absolute owner of the said property himself is not the actual owner and that those properties were purchased by the de-facto complainant's ancestors vide document Nos. 1231 of 1929, 3180 of 1950 and 3181 of 1950 of Sub Registrar Office, Thiruvotriyur.

4. Based on the public notice issued on behalf of the father of the petitioner, this complaint dated 28.05.2010 was made by the de-facto complainant to the Commissioner of Police, Egmore, Chennai against the petitioner and his father.

5. The petitioner/accused No.1 in his petition has gone into the sequence of events in order to clarify that the allegation of the de-facto complainant is totally false and that there was no motive or iota of doubt in the onwership of properties. According to him, the de-facto complainant taking advantage of the dispute amongst the family members of the petitioner, has given this false complaint. It is also emphasized the nature of the dispute being purely civil in nature, the entire proceedings in Crime No.11/2012 of Central Crime Branch, Chennai was unwarranted and is only a ploy for the de-facto complainant to grab the property, which was settled long back in his father's name.

6. The de-facto complainant in his complaint has not given any details as to the modus operandi of the petitioner in grabbing the property claimed by the petitioner as his own. He has instead harped on the contention of the public notice issued on behalf of the father of the petitioner/accused. It is pertinent to mention that in the said notice itself, the father of the petitioner has clearly mentioned about the cancellation of the earlier settlement deed vide document No.4985 of 2008 of the Sub Registrar Office, Thiruvotriyur by way of revocation deed dated 28.05.2010 vide document No.5182 of 2008 of the Sub Registrar Office, Thiruvotriyur. Interestingly, a perusal of

the cancellation deed dated 28.05.2010 reveals that there was a change of mind by the father of the petitioner, who admits that he had settled the property in the name of the petitioner and now he reverses his decision by way of this cancellation deed. The contents of the public notice issued on behalf of the petitioner's father alleges fraudulent creation of the settlement deed vide document No.4985 of 2008 of Sub Registrar Office, Thiruvotriyur, while in the cancellation deed, the petitioner's father claimed to have changed his mind and therefore, cancelled the earlier deed. This also shows that he was in know of the earlier settlement deed and the entire controversy appears to have been as a result of wrangle amongst the family members over the settlement of the property in the name of the petitioner.

7. Therefore, there is substance in the contention of the petitioner that the de-facto complainant took advantage of the situation, reacted to the public notice which was dated 31.08.2008, by lodging this police complaint on 28.05.2010, a couple of years later, and first information report was registered on 06.01.2012, wherein a civil dispute on the property has been twisted and given a criminal colour with no substance and no basic ingredients to attract the offences punishable under Sections 420, 465, 467, 468, 471 and 474 of the Indian Penal Code.

8. Mr.Sengathirvel, learned counsel appearing for the de-facto complainant/2nd respondent relied on the decision in M.Krishnan Vs. Vijay Singh and another reported in (2001) 8 Supreme Court Cases 645 and contended that revisional powers for quashing the proceedings at the initial stage can be exercised only where the allegations made in the complaint do not disclose commission of any offence. He also relied on the decision in Parbatbhai Aahir Alias Parbatbhai Bhimsinhbhai Vs. State of Gujarat and another reported in (2017) 9 Supreme Court Cases 641 and contended that in a case which involves extortion, forgery and conspiracy, the first information report cannot be quashed in the interest of the society. It is to be noted that the facts of the above rulings are entirely different and in the present case, there are no allegations to attract the offences punishable under Sections 420, 465, 467, 468, 471 and 474 of the Indian Penal Code, even if the allegations made in the complaint are taken at their face value and accepted in their entirety.

9. The first respondent/complainant in his counter affidavit has contended that the petitioner has created fabricated document, forging the signature of the de-facto complainant's father on 22.05.2008 and subsequently, transferred the property in the name of his wife. It is also their contention that they are conducting investigation in a fair and impartial manner in accordance with law and that the

investigation is still pending on their file. It is pertinent to point out that the de-facto complainant had never alleged that his father's signature was forged by the petitioner. On the contrary, it is alleged that, the petitioner had forged his own father's signature (petitioner's father). Therefore, it is clear that the 1st respondent without understanding the allegations made in the complaint, had simply registered the First Information Report for the offences punishable under Sections 420, 465, 467, 468, 471 and 474 of the Indian Penal Code. This only shows non application of mind on the part of the first respondent.

10. Now, coming to the facts of the case, it is to be pointed out that the petitioner, subsequent to the cancellation deed only, is one of the legal heirs of the deceased father of the petitioner and there is no direct transaction in which the de-facto complainant's interest is endangered. A civil dispute in O.S.85 of 2017 on the file of the District Munsif, Ponneri is also pending and the suit was filed by the petitioner. It is unfortunate that the criminal complaints are made and taken cognizance of by the police, even without the basic details as to how the alleged offences have been committed giving rise to the suspicion that the criminal complaints would serve the purpose of coercing the other party in a civil dispute to come to terms with the complainant. It is true that the civil disputes in the form of litigations are time consuming, but there should be no attempt to criminalize the same. As far as the present case is concerned, as already observed, there is no substance to make out the offences under Sections 420, 465, 467, 468, 471 and 474 of the Indian Penal Code and this court is not also expected to go into the details of the civil dispute, which has to be decided by the competent court. I therefore, hold that the entire proceedings in Crime No.11 of 2012 of Central Crime Branch, Egmore is liable to be quashed.

11. In the result, this criminal original petition is allowed and the proceedings in Crime No.11 of 2012 of Central Crime Branch, Egmore is quashed. The connected criminal miscellaneous petitions are closed.

s/d-

Assistant Registrar(CS-V)

True Copy

Sub-Assistant Registrar

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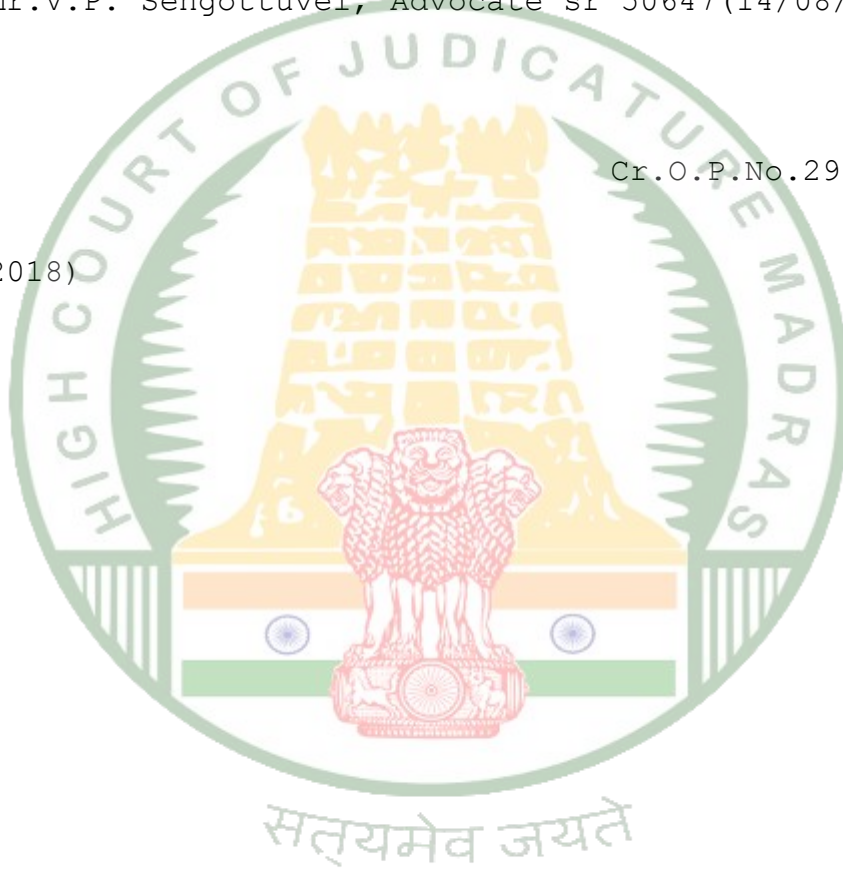
1. The Sub Inspector of Police,
Team 18-A, Central Crime Branch,
Chennai.
2. The Public Prosecutor,
Madras High Court.

+2 CCS to Ms.G.Daisy John, Advocate sr 50147.

+1 CC to Mr.V.P. Sengottuvel, Advocate sr 50647(14/08/2018)

Cr.O.P.No.29656 of 2013

SP(06/08/2018)



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