

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT****DATED: 05.09.2018****CORAM:****THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN****Crl.O.P. (MD)No.16531 of 2014****and Crl.M.P. (MD)Nos.1 of 2014, 166 of 2016 & 5045 of 2018**

N.Subramanian : Petitioner /Sole Accused

Vs.

1. The State through
Inspector of Police,
District Crime Branch,
Sivagangai District,
Sivagangai.

2. Rajamani : Respondents/Complainants

PRAYER: Criminal Original Petition filed under Section 482 Cr.P.C., to call for the records relating to the FIR in Crime No.36 of 2014 on the file of the first respondent police and to quash the same by allowing this Criminal Original Petition.

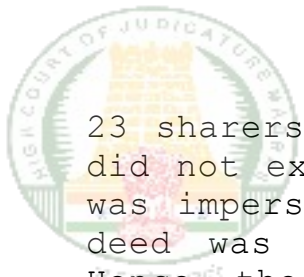
For Petitioner : Mr.M.Thirunavukkarasu
For R1 : Mr.M.Asokan,
Government Advocate (Crl.side)
For R2 : Mr.R.Gandhi
for Mr.C.Ganeshkumar

ORDER

This Criminal Original Petition has been filed to call for the records relating to the FIR in Crime No.36 of 2014 on the file of the first respondent police and to quash the same.

2.Heard the learned counsel appearing for the petitioner and the learned Government Advocate(Crl.side) appearing for the first respondent and the learned counsel appearing for the second respondent.

3.The case of the prosecution is that the property comprise in survey nos.148/1C, 1D & 1E is originally belonged to fore fathers of the defacto complainant and he is also one of the co-owner of the property. There are 23 co-sharers and the defacto complainant is also one of the co-sharer in the joint family. The petitioner/accused purchased the above said property from all the



23 sharers of the joint family, in which the defacto complainant did not execute any sale deed in favour of the petitioner but he was impersonated by others and his signature was forged and sale deed was executed in favour of the petitioner on 24.07.2002. Hence, the complaint.

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4. After receipt of the complaint, the first respondent registered a case in Crime No.36 of 2014, for the offence under Sections 419, 467, 468 and 420 IPC, as against the petitioner.

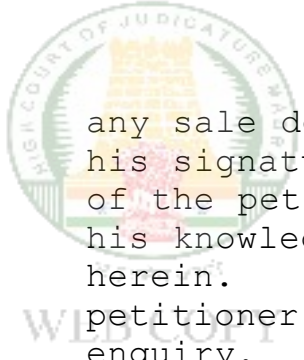
5. The learned counsel appearing for the petitioner submitted that the property comprised in survey no. 148/1C, 1D & 1E situated at Yenathi Village, was originally belonged to one Chithran. The defacto complainant is also one of the legal heir, who is the paternal grandson of Chithran and he is the co-sharer of the above said property. At the time of purchasing the said property, all the legal heirs and co-sharers, including the defacto complainant have executed a sale deed in favour of the petitioner on 24.07.2002 and registered the document No.1173/2002 in the office of the Sub-Registrar, Thiruppuvanam, Sivagangai District. Therefore, there is absolutely no forgery and no impersonation committed by the petitioner, while purchasing the property. Hence, the petitioner has filed this petition to quash the First Information Report.

6. While purchasing the above said land, all the sharers of the joint family and legal heirs of the said Chithran have come to the Registrar Office and executed the sale deed in favour of the petitioner. Even assuming that the second respondent/defacto complainant was impersonated by other co-sharers, the petitioner has absolutely no knowledge about the impersonation. Therefore, the petitioner is no way connected with the said allegations. The petitioner is a bonafide purchaser for a valid sale consideration of the property. Further, the petitioner filed a suit in O.S.No.138 of 2006 as against the defacto complainant for injunction. Since the defacto complainant was absent, the suit has been decreed on 22.07.2008. Thereafter, the defacto complainant did not take any steps to set aside the ex-parte decree, which was granted in favour of the petitioner herein.

7. The defacto complainant also filed a Suit in O.S.No.32 of 2014 before the learned District Munsif Court, Manamadurai for partition, in which the petitioner was also implicated as fourth defendant. Thereafter, with the collusion of other co-sharers, the defacto complainant preferred this false complaint only to get more money from the petitioner. It is only a clear abuse of process of law. Therefore, he prayed for quashment of the First Information Report, which is registered against him.

<https://hcservices.ecourts.gov.in/hcservices/>

8. Per contra, the learned counsel appearing for the second respondent submitted that the defacto complainant did not execute



any sale deed in favour of the petitioner and he was impersonated, his signature was forged and that sale deed was executed in favour of the petitioner herein. The said sale deed was executed without his knowledge and he did not receive any share from the petitioner herein. Further, the First Information Report against the petitioner is kept in abeyance without any continuation of enquiry. As per the First Information Report, there are specific allegations against the petitioner herein and this Criminal Original Petition deserves to be dismissed.

9. Admittedly, the petitioner is a purchaser of the property comprised in survey no. 148/1C, 1D & 1E situated at Yenathi Village, which was purchased from the legal heir of one Mr. Chithran, by a sale deed dated 24.07.2002 and registered a document in document No. 1173/2002. He is a bonafide purchaser from the legal heirs of the said Chithran. Except the defacto complainant/second respondent, no other co-sharers have come forward with any complaint alleging that the defacto complainant's signature was forged one and he was impersonated by the petitioner herein, while registering the sale deed.

10. Further more, it is seen from the records that the defacto complainant also filed a Suit in O.S.No.32 of 2014 before the learned District Munsif Court, Manamadurai for partition and the petitioner herein was also implicated as fourth defendant in the said suit. It is also seen that at the time of purchasing, the petitioner might not have knowledge about the identification of other co-sharers and as such the allegations of impersonation would not attract as against the petitioner. Like wise, he might not have knowledge about the forged signature of the defacto complainant while executing the sale deed. Further, the ingredients of the offence under Section 420 IPC also would not attract as against the petitioner. Therefore, no offence is made out as alleged by the defacto complainant as against the petitioner. It is only a clear abuse of process of law. Therefore, the First Information Report is liable to be quashed.

11. The learned counsel appearing for the second respondent would submit that as far as the petitioner is concerned, the offence set out in the First Information Report would not attract, since, the offence was committed only by other co-sharers, while executing sale deed, impersonating the second respondent and forging his signature and executing sale deed in favour of the petitioner. Therefore, he prays for a direction to the first respondent to conduct enquiry in respect of impersonation of the defacto complainant and forging his signature by the co-sharers of the property and file a final report within a stipulated time.

<https://hcservices.courts.gov.in/hcservices/> of the above, this Criminal Original Petition is allowed and the First Information Report in Crime No.36 of 2014 is quashed as against the petitioner herein. Further, this Court



directs the first respondent to conduct enquiry in respect of impersonation of the defacto complainant and forging his signature by the co-sharers of the property and file a final report, in accordance with law, within a period of three months from the date of receipt of a copy of this order. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar(CS-III)

/True Copy/

Sub Assistant Registrar(CS-II)

To

1. The Inspector of Police,
District Crime Branch,
Sivagangai District, Sivagangai.
2. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1cc to Mr.M.Thirunavukkarasu, Advocate Sr.No.82410

+1cc to Mr.C.Ganeshkumar, Advocate Sr.No.82560

GNS

VB/RP/SAR2/26.09.2018/4P/5C

CrI.O.P. (MD) No.16531 of 2014
05.09.2018