



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 23.07.2018

CORAM:

THE HONOURABLE MR. JUSTICE D. KRISHNAKUMAR

CRL.OP. (MD) Nos. 10272 & 10925 of 2018

WEB COPY

CRL.OP. (MD) No. 10272 of 2018:

Mohammed Ibrahim

... Petitioner

Vs.

1. The Superintendent of Police,
Ramanathapuram.

2. The Deputy Superintendent of Police,
Anti Land Grabbing Special Unit,
Ramanathapuram.

3. The Inspector of Police,
Anti Land Grabbing Special Unit,
Ramanathapuram.

4. M.Syed Abudhahir

... Respondents

[R.4 is impleaded vide order dated 23.07.2018
made in Crl.M.P. (MD) No. 5291/18 in Crl.O.P. (MD) No. 10272/18]

PRAYER: Criminal Original petition filed under Section 482 of Code of Criminal Procedure, to direct the respondents not to interfere the civil dispute in the guise of enquiry based on the order of this Court in WP(MD) No. 11940/2018.

For Petitioner : Mr.R.M.Arun Swaminathan

For Respondents : Mr.K.Suyambulingabharathi
Government Advocate (Crl. Side)
for R.1 to R.3
Mr.Porkodi Karnan for R.4

CRL.OP. (MD) No. 10925 of 2018:

M.Syed Abudhahir

... Petitioner

Vs.

1. The Superintendent of Police,
Office of Superintendent of Police,
Ramanathapuram.

2. The Deputy Superintendant of Police,
Anti Land Grabbing Special Unit,
Ramanathapuram.



3. The Inspector of Police,
Anti Land Grabbing Special Unit,
Ramanathapuram.

... Respondents

PRAYER: Criminal Original petition filed under Section 482 of Code of Criminal Procedure, to direct the third respondent to register the FIR based on the petitioner's complaint dated 10.05.2018.

For Petitioner : Mr.Porkodi Karnan

For Respondents : Mr.K.Suyambulingabharathi
Government Advocate (Crl. Side)

COMMON ORDER

As the issue involved in both the cases revolves around a same point, they are disposed of by way of this common order.

2. Criminal Original Petition in Crl.OP(MD)No.10272/18 is filed by one Mohammed Ibrahim, to direct the official respondents not to interfere with the civil dispute under the guise of enquiry.

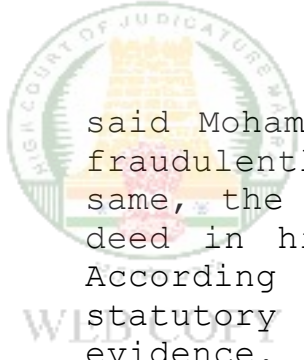
3. Criminal Original Petition in Crl.OP(MD)No.10925/18 is filed by one M.Syed Abudhahir, to direct the third respondent to register the FIR based on his complaint dated 10.05.2018.

4. Heard the learned Counsel appearing for the respective parties and perused the materials placed on record.

5. For the sake of convenience, parties are being referred to by their respective names.

6. According to M.Syed Abudhahir (petitioner in Crl.OP(MD) No.10925/18), he resided in abroad along with his father and brother for some time. Due to old age and ailments, his father, namely, Mohammed Hanifah, came back to his native and M.Syed Abudhahir used to send amount to his deceased father, namely, Mohammed Hanifah, during his life time, for his expenses. It is his case that one Mohammed Ibrahim (petitioner in Crl.OP(MD) No.10272/18), using the old age of his father, Mohammed Hanifah, has misused his father's ATM card and withdrew a lump sum amount.

7. It is the further case of M.Syed Abudhahir that his father Mohammed Hanifah, due to his old age and ailments, was hospitalized on 21.02.2018 and subsequently, died on 05.03.2018. On the date of his hospitalization, ie., on 21.02.2018 itself, the



said Mohammed Ibrahim, using his father's unconscious state, has fraudulently obtained a Hiba in his favour. Adding fuel to the same, the said Mohammed Ibrahim, using the Hiba, has executed a deed in his favour, in respect of Mohammed Hanifah's property. According to M.Syed Abudhahir, the said Hiba has no legal statutory right for execution of a deed, but, it is only an evidence. Therefore, relying upon the Hiba, that too fraudulently obtained, Mohammed Ibrahim cannot seek right over the property. Hence, M.Syed Abudhahir has made a complaint before the respondents police, however, no action is forthcoming and hence, he is before this Court.

8. The allegations levelled by M.Syed Abudhahir was, of course, refuted by Mohammed Ibrahim, who, in turn, would submit that he took care of Mohammed Hanifah during his old age and in order to show his gratitude, Mohammed Hanifa on 25.12.2017 orally gifted the subject property and has executed a deed, in this regard, on 21.02.2018. Such being so, based on the complaint preferred by M.Syed Abudhahir, the respondents police are harassing him and thence, he is before this Court.

9. The learned Government Advocate (Crl. Side), on instructions, would submit that the complaint preferred by M.Syed Abudhahir is civil in nature and therefore, the same is closed, advising the parties to approach the competent civil Court.

10. During the course of arguments, it is brought to the knowledge of this Court that based on the Hiba, The Tahsildar, Ramanathapuram, has given patta in favour of Mohammed Ibrahim, which was subsequently cancelled by the Revenue Divisional Officer, on an appeal preferred by M.Syed Abudhahir. Aggrieved over the same, Mohammed Ibrahim has preferred a writ petition before this Court in W.P.(MD)No.11940 of 2018, wherein, an interim order, staying the order of the Revenue Divisional Officer cancelling the patta issued by the Tahsildar, was granted. This Court is also informed that the said writ petition is still pending.

11. In such a view of the matter, this Court is of the considered opinion that the respondents police have rightly closed the complaint of M.Syed Abudhahir. The order of the Revenue Divisional Officer cancelling the patta issued by the Tahsildar, ie., the genuineness of the said Hiba, is pending before the Writ Court, ie., these aspects have already been seized by the Writ Court. Depending on the outcome of the writ petition, it is open to M.Syed Abudhahir to approach the respondents police for appropriate relief, at later stage, if required.

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

12. Therefore, at this stage, this Court is not inclined to interfere with the respondents' act in closing the complaint of



M.Syed Abudhahir and hence, Crl.OP(MD)No.10925/18 is dismissed. Since M.Syed Abudhahir's complaint itself was closed by the respondents police, there is no question of harassment at their hands and hence, Crl.OP(MD)No.10272/18 is also dismissed.

Sd/-

Assistant Registrar(CS-I)

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/True Copy/

Sub Assistant Registrar(CS-II)

To

1. The Superintendent of Police,
Office of Superintendant of Police,
Ramanathapuram.
2. The Deputy Superintendent of Police,
Anti Land Grabbing Special Unit,
Ramanathapuram.
3. The Inspector of Police,
Anti Land Grabbing Special Unit,
Ramanathapuram.
4. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1cc to Mr.R.M.Arun Swaminathan, Advocate Sr.No.74858

+1cc to M/s. Polax Legal Solutions Sr.No.74549

GK

VB/KAK/SAR2/04.09.2018/4P/7C

CRL.OP. (MD) Nos.10272 & 10925 of 2018
23.07.2018