



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 21.02.2018

CORAM

THE HONOURABLE MR. JUSTICE R.PONGIAPPAN

Crl.O.P. (MD) No.1756 of 2013
and
M.P. (MD) No.1 of 2013

1.Chinnathal
2.Selvaraj
3.Naattudurai
4.Veluchamy
5.Ramasamy
6.Nachimuthu
7.Harirama Krishnan
8.Lakshmi

... Petitioners/ Accused Nos. 1 to 8

Vs.

1.State represented by
The Inspector of Police,
District Crime Branch,
(Anti Land Grabbing Special Cell)
Dindigul, Dindigul District.
(Crime No.68/11)

... Respondent/ Complainant

2.Veluchamy

...Respondent/Defacto complainant

PRAYER: Criminal Original Petition is filed under Section 482 of the Code of Criminal Procedure, to call for the records pertaining to the case in C.C.No.357 of 2012, on the file of the learned Judicial Magistrate No.II, Dindigul and to quash the same.

For Petitioners	: Mr.S.Ramasamy
For R-1	: Mr.A.Robinson
	Government Advocate (Crl.Side)
For R-2	: Mr.D.Venkatesh

O R D E R

This Criminal Original Petition has been filed to call for the records pertaining to the case in C.C.No.357 of 2012 on the file of the learned Judicial Magistrate No.II, Dindigul and to quash the same.

2.The petitioners herein are A1 to A8 in C.C.No.357 of 2012, on the file of the learned Judicial Magistrate No.II, Dindigul. Based on the complaint given by the second respondent, the said case has been registered by the first respondent for the offences punishable under Sections 419, r/w 109, 471, 465, 467, 468 r/w 34 I.P.C.,



3. The learned counsel appearing for the petitioners submitted that as early as on 09.09.2009, the same second respondent/defacto complainant herein lodged a complaint before the first respondent police for the same set of facts, which was registered in Crime No.31 of 2009. Subsequently, after completing investigation, the said First Information report was closed as mistake of fact. Before closing the said F.I.R., notice was sent to the second respondent/defacto complainant through a registered post with acknowledgment due on 06.02.2010 in D.No.215 of 2010 by the learned Judicial Magistrate No.II, Dindigul. After receiving the said intimation, the second respondent/defacto complainant has not appeared before the learned Judicial Magistrate No.II, Dindigul and he has not filed any protest application. Thereafter, the case relates to Crime No.31 of 2009 was closed in the year 2010 itself. Subsequently, in the year 2011, the second respondent/defacto complainant herein has lodged an another one complaint for the same set of allegation contained in the earlier complaint relates to Crime No.31 of 2009.

4. The learned counsel appearing for the petitioners further added that no one can present the second complaint for the same set of facts, further he relied upon the Judgment reported in 1987 L.W Page 79, in the case of K.Ramasubbu -vs- State, through the Inspector of Police, Palani Taluk and another, wherein, this Court had held in para 5 as follows;

" the case before us is that there is no cognizance at all of the earlier enquiry report, and when once the Magistrate passes an order as ' mistake of law' on the earlier enquiry report, submitted by the police, it is a judicial order, for, the Magistrate has passed the said order after applying his mind on the report submitted by the police, and taking cognizance of the same offence by the Magistrate on a reinvestigation of the case by the police without any fresh complaint by the complainant and without obtaining any permission from Court, is illegal, perverse and contrary to law and should not be allowed to sustain and has, therefore, to be set aside"

5. Therefore, considering the verdict of this Court and applying the principles laid in the above Judgment, the case, which is in our hands, the first respondent herein after receiving the second complaint with the same set of facts, filed a charge sheet without getting permission from the Court concerned is not permissible. Accordingly, the Criminal Original Petition is allowed and the case against the petitioners in C.C.No.357 of 2012, on the file of the learned Judicial Magistrate No.II, Dindigul is quashed. Consequently, the connected miscellaneous petition is closed.

6. Further, on going through the statement given by the Chinnappa Gounder, it is seen that he categorically mentioned that the first accused after preferring the bogus statement, sold the land in question to various persons, thereby, this Court after



giving liberty to the second respondent for filing a private complainant before the appropriate forum, allowed this Criminal Original Petition and quash the C.C.No.357 of 2012.

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/True Copy/

Sd/-

Assistant Registrar(CS-III)

Sub Assistant Registrar

To

- 1.The Judicial Magistrate No.II,
Dindigul.
- 2.The Inspector of Police,
District Crime Branch,
(Anti Land Grabbing Special Cell)
Dindigul, Dindigul District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1cc to M/S.S.Ramasamy, Advocate SR.No. 50180

CrI.O.P. (MD)No.1756 of 2013
and
M.P. (MD)No.1 of 2013

msa

JM/SV MMS/SAR 1/23.03.2018/3P/5C