



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 28.02.2018

Delivered on : 09.03.2018

CORAM

THE HONOURABLE MR. JUSTICE R.PONGIAPPAN

Crl.O.P. (MD) No.22159 of 2013

and

M.P. (MD) No.2 of 2013 & CRL.MP (MD) No.6755 of 2017

1.G.Annamalai
2.S.A.Jaganatha Raja
3.S.N.Sureka
4.S.Kasi Rajam
5.C.D.Subramanian
6.J.Johnmathew Kurunthamannil
7.M.Arumugam

...Petitioners/Accused

Vs.

1.The Inspector of Police,
Karivalamvanthanallur Police Station,
Sankarankovil Taluk,
Tirunelveli District.
(Crime No.50 of 2013)

...1st Respondent/Complainant.

2.S.Muthupandi

...2nd Respondent/Defacto
Complainant

PRAYER: Criminal Original Petition is filed under Section 482 of the Code of Criminal Procedure, to call for the records in F.I.R.No.50/2013, dated 26.03.2013, on the file of the first respondent police and quash the same.

For Petitioners : Mr.N.Sundareshan

For R1 : Mr.A.Robinson
Government Advocate
(Criminal side)

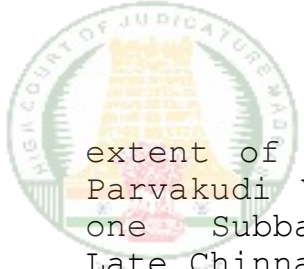
For R2 : Mr.S.Radhakrishnan

ORDER

This Criminal Original Petition has been filed to quash the F.I.R. in Crime No.50 of 2013, dated 26.03.2013, on the file of the first respondent police.

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

2.The case of the prosecution is that on 15.07.2009, the first petitioner herein purchased a land in S.No.336/4, measuring to an

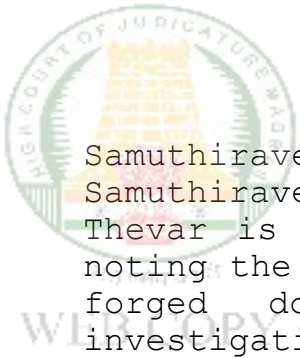


extent of 1 acre and 7 cents, bearing Patta No.1588, situated at Parvakudi Village, Sankarankovil Taluk, Tirunelveli District, from one Subbaiah and Nagaiyah, who are the sons of one Late.Chinnamayandi Konar of the said Village. The said sale deed was registered as Document No.1817 of 2009 before the Sub-Registrar Office at Karivalamvanthanallur, Sankarankovil Taluk, Tirunelveli District. Before purchasing the property, the first petitioner verified the Encumbrance Certificate for a period of 30 years, 'A' Reigster and other revenue documents. After taking possession, on 15.07.2009, he sold out the property to one S.N.Appal Raja, S/o.Narayana Raja, vide Document No.2553 of 2009, dated 25.09.2009. Subsequent to the said purchase, the said S.N.Appal Raja also sold out the property through his Power Agent - S.A.Jeganatha Raja, who is the second petitioner herein in favour of the third petitioner herein - N.S.Sureka, vide Document No.3020 of 2009, dated 16.11.2009. Thereafter, on 27.12.2010, in respect of the very same property in question, the said N.S.Sureka executed a sale deed in favour of the petitioners 4 to 6 herein, vide Document No.4012 of 2010, on the file of the very same Sub-Registrar Office. While things are being so, one S.Muthupandian, S/o.Samuthiravel, who is the second respondent herein/defacto complainant and working as a Police Officer in E3-Teynampet Police Station, Chennai, called the first petitioner and told that he is entitled to 53.50 cents of land, out of 1 acre and 7 cents of land by way of inheritance. Consequent to the said message, the case has been registered by the first respondent police in Crime No.50 of 2013 for the offences punishable under Sections 120(b), 465, 468 and 506(i) IPC.

3.Against the said FIR, the petitioners, who are all the purchasers and the subsequent purchasers of the land in dispute, filed this Criminal Original Petition to quash the said FIR, dated 26.03.2013, on the file of the first respondent police.

4.In order to substantiate the claim made by the petitioners, the learend counsel appearing for the petitioners made a submission as only after seeing the Encumbrance Certificate and other Revenue Records, the first petitioner herein purchased the property. If really, the second respondent is having any grievance with regard to the property in question, he has to approach the Civil Court only for confirming the title. But, here in this case, the Subordinate Court, Sankarankovil, in the judgment and decree dated 07.09.2016, rendered in A.S.No.66 of 2015, refused to grant the relief of declaration in favour of the second respondent herein and thereby, the title claimed by him is negatived by the Civil Court. Without noting that aspect, the second respondent herein lodged a complaint before the first respondent police and the same is liable to be quashed.

5.On the other hand, the learned counsel appearing for the second respondent made a submission as on 27.02.1974 itself one Muthian, S/o.Periyamayandi Konar sold out the property measuring to an extent of 53.5 cents in the same survery number in favour of one



Samuthiravel Thevar. The defacto complainant is the son of the said Samuthiravel Thevar. The sale effected in favour of Samuthiravel Thevar is reflected in the Encumbrance Certificate. But, without noting the said aspect, the petitioners herein fraudulently, created forged documents and committed the offence and thereby, investigation is necessary to find out the truth.

6.Now, considering the submissions made by the learned counsel on either side, it appears that in the affidavit filed by the first petitioner at Page No.6, Paragraph No.8, he admitted that, in the Encumbrance Certificate, dated 27.02.1974, there was an entry with regard to the purchase of 53.5 cents of land in S.No.336/4. The said sale was effected between Muthiah, S/o.Periyamayandi Konar in favour of Samuthiravel Thevar. Actually, the said Periyamayandi Konar is the elder brother to the father of the vendors of the first petitioner. So, the first petitioner himself admitted that he purchased the land in dispute measuring to an extent of 53.5 cents standing in the name of the second respondent/defacto complainant. Accordingly, this Court has to identify whether the petitioners purchased the property after noting the entry found in the Encumbrance Certificate, dated 27.02.1974 or not. But, the mistake committed by the petitioners is mala fide one, the allegations levelled against them, constitute the offences as stated in the complaint. As of now, after registering the FIR, the investigation has not been completed. In order to identify the intention of the petitioners, a thorough investigation is necessary in this case. If the FIR is quashed, the second respondent/defacto complainant may not get justice. Therefore, I have no hesitation to dismiss this petition. Accordingly, this Criminal Original Petition is dismissed. The interim order granted by this Court on 24.01.2014 stands vacated. Consequently, conneced Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar(Crl.Side)

/True Copy/

Sub Assistant Registrar

To

1.The Inspector of Police,Karivalamvanthanallur Police Station,
Sankarankovil Taluk, Tirunelveli District.

2.The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

+1CC to Mr.N.Sundaresan, Advocate, SR.No. 54047

+1CC to Mr.S.Radhakrishnan, Advocate, SR.No. 54344

order in

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