IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on: 31.01.2019	Delivered on: 16.04.2019

CORAM :

THE HONOURABLE Mr.JUSTICE P.RAJAMANICKAM

Crl.O.P.No.23481 of 2013
and
M.P.No.1 of 2013

T.Rajnarayanan ..Petitioner/Accused No.3

-Vs-

1.State by
The Sub Inspector of Police,
C-3, Police Station,
Seven Wells, Chennai-79,
(Crime No.279 of 2009).

2.R.Aruna Ravikumar ... Respondents

Prayer: Criminal Original Petition filed under section 482 of Criminal Procedure Code to quash the charge sheet in C.C.No.2288 of 2011 on the file of the Chief Metropolitan Magistrate, Egmore, Chennai.

For Petitioner : Mr.V.Gopinath, Senior Counsel
For Mr.K.Rajasekaran

For Respondents : Mr.R.Sooryaprakash, for R1
Government Advocate (Crl.Side)

: Mr.M.Mahendra Kumar for R2

ORDER

This petition has been filed by the accused No.3 to quash the proceedings against him in C.C.No.2288 of 2011 on the file of the Chief Metropolitan Magistrate, Egmore, Chennai,

2. The second respondent had lodged a complaint before the first respondent alleging that on 13.04.2009 at about 4.00 a.m., one A.R.Vinod Kumar, and several other persons including petitioner herein armed with deadly weapons trespassed into the property belongs to her husband TNS.Ravikumar which is situated in Door No.511, Mint Street, George Town, Chennai 79 and they demolished a portion of the factory shed with the help of two JCB Bulldozer bearing Registration Nos.TN-03-9631 and TN-02-K-1058. She further stated that the said fact was informed to her by the watchman and immediately she, her husband and their son-

in-law rushed to the spot and before reaching there, the accused persons demolished the building in entirety and on seeing them, they came towards them with deadly weapons in order to murder them and hence, she contacted the emergency police help by dialing '100' at about 4.20 a.m., and the patrolling police came and dispersed all the accused persons and rescued them. She further stated that value of the damages caused by the accused persons is worth Rs.10 crores.

3. After receipt of the said complaint, the first respondent had registered a First Information Report in Cr.No.274 of 2009 under Sections 147, 148, 448, 341, 506(ii) of IPC and read with Section 3 of Tamil Nadu Property (Prevention of Damages and Loss) Act and took the mater for investigation and after completing the investigation, he filed a charge sheet against one AR.Vinod Kumar and 14 others and the petitioner herein has been shown as accused No.3.

4. Based on the said charge sheet, the learned Chief Metropolitan Magistrate, Egmore, Chennai, has taken the case on file in CC.No.2288 of 2011. The third accused has filed the present petition under under Section 482 of Criminal Procedure Code to quash the aforesaid proceedings against him in the above C.C.

5. The first respondent has filed a status report stating that the Non Bailable Warrants are pending against the accused Nos.8,9 and 11 to 15 and in the meanwhile, the petitioner has moved this Court and obtained interim stay and hence there is no further progress made in C.C.No.2288 of 2011.

6. The second respondent/defacto complainant has filed a counter statement opposing this petition.

7. Heard, Mr.V.Gopinath, learned Senior Counsel for Mr.K.Rajasekaran, the learned counsel for the petitioner and Mr.R.Sooryaprakash, the learned Government Advocate (Crl.Side) for the first respondent and Mr.M.Mahendra Kumar, the learned counsel for the second respondent.

8. The learned Senior Counsel for the petitioner has submitted that the lands forming part of larger extent of 10 grounds comprised in Old Survey No.600, situated in Mint Street, Chennai-79 was owned by one Palaniyandi Pillai by virtue a registered sale deed dated 04.05.1910. The said Palaniyandi Pillai executed a Will on 11.12.1927 in favour of his son P.Nataraja Pillai and appointed his other sons Ramasamy Pillai and Vadivelu Pillai as executors of the said Will. He further submitted that the said Palaniyandi Pillai died on 19.05.1928. Thereafter, his sons Ramasamy Pillai and Vadivelu Pillai had executed a registered settlement deed dated 30.12.1935 in favour

of P.Nataraja Pillai. The said P.Nataraja Pillai died on 13.01.1957 leaving his widow N.Krishnammal.

9. The learned Senior Counsel for the petitioner has further submitted that the said N.Krishnammal filed a civil suit in C.S.No.7 of 1959 before this Court against the sons of her brother-in-law in respect of her husband's share including the aforesaid properties. Pending suit, the said N.Krishnammal executed a Will dated 28.08.1979 bequeathing the above property to her sister Kamalammal and appointed her son-in-law U.Thiyagarajan as the executor of the Will. After her death, the said U.Thiyagarajan contested the above suit as executor of the deceased N.Krishnammal and the above matter went up to the Hon'bel Supreme Court in Civil Appeal No.2085 of 1969 and after the order of the Hon'ble Supreme Court dated 12.08.1983, a Compromise Memo was filed and a final decree was passed by this Court on 24.12.1993.

10. He further submitted that as per the above Compromise Decree, the aforesaid property was allotted to the branch of N.Krishnammal and in the said Compromise Decree itself, the names of the tenants were mentioned and one such tenant is T.N.Subramaniyan. He further submitted that in the meantime, this Court had granted probate of the Will of N.Krishnammal in O.P.No.62 of 1987 by the order dated 11.03.1991. As per the said Will, the aforesaid property came to Kamalammal and the said Kamalammal died on 13.05.1994 leaving a Will dated 18.05.1992 bequeathing the above property to her two daughters and to her grandson, the petitioner herein. He further submitted that in the said Will also, U.Thiyagarajan was appointed as executor of the Will of Kamalammal and the said Will was probated by this Court on 09.02.1996 in O.P.No.695 of 1995. One of the daughters of the said kamalammal by name T.Meera is the mother of the petitioner herein.

11. The learned Senior Counsel for the petitioner has further submitted that the said T.N.Subramaniyan, who was a tenant, created false records as if he is the owner of the property in Door No.278A and later assigned as Door No.511 and based on the said forged documents initiated eviction proceedings against his sub-tenants in RCOP.Nos.1856 of 1992 and 1857 of 1992 which were dismissed by the Rent Controller. He further submitted that the order of the Rent Controller was upheld by the Rent Control Appellate Authority also. Pending Rent Control Appeals in RCA.Nos.452 and 453 of 1993, the said T.N.Subramaniyan died and his legal heirs had prosecuted the Appeals. After the death of the petitioner's father U.Thiyagarajan, the petitioner came to know about the above positions and learnt that the said T.N.Subramaniyan being a direct tenant is receiving huge rents from the sub tenants but

paying paltry sum of Rs.1,200/- towards rent. The petitioner informed the sub-tenants to pay the rents directly to him and after that the sub tenants are also started paying rents to him directly which enraged TNS.Ravikumar and his wife Aruna Ravikumar, the defacto complainant herein.

12. The learned Senior Counsel for the petitioner further submitted that the said TNS.Ravikumar and his wife instigated the wife of the chief tenant, Sakunthala to file the eviction petition against the sub-tenants. The petitioner and his mother filed impleading petitions and the said impleading petitions were dismissed on the ground that the Rent Controller cannot go into title. Taking advantage of the same, the sub-tenants were also stopped paying rents to the petitioner. He further submitted that tired of the litigation, the petitioner and other co-owners decided to sell the above property and accordingly the petitioner, his mother's sister had independently entered into sale agreements with one S.Udayakumar on 01.08.2007 in respect of their respective 1/3rd share in the property and also executed a Power of Attorney in his name. Thereafter, the petitioner did not know anything about the above property as he had relinquished all his rights over the above property.

13. He further submitted that all of a sudden, on 11.11.2011, the petitioner received a call from the first respondent police and he was informed about the present case and till such time, the petitioner had no clue about anything that had happened in the above property and only thereafter he came to know that the second respondent herein lodged the above false complaint before the first respondent. He further submitted that the petitioner learnt that the second respondent along with other persons impersonated and forged a deed of release deed dated 22.08.2005, as if they are the owners of the property bearing Door No.511 and relinquishing all their rights to and in favour of TNS.Ravikumar.

14. The learned Senior Counsel for the petitioner has further submitted that the petitioner's Power of Attorney Udayakumar sold the above property to one M/s.Cosmo Foundations Ltd, under a registered sale deed dated 12.09.2007 and subsequently, a rectification deed was also executed on 21.07.2008. The Chairman of M/s.Cosmo Foundations came to know about the execution of the forged release deed and gave a complaint before the Central Crime Branch and an FIR was registered in Crime No.746 of 2008 dated 27.09.2008 for the offences punishable under Sections, 420, 465, 467, 468, 471 and 120(b) IPC as against the second respondent herein and her husband TNS.Ravikumar, their son-in-law and others. He further submitted that apprehending criminal action and conviction, the second respondent herein along with other legal heirs cancelled

the release deed by cancellation deed dated 03.09.2009.

15. He further submitted that after investigation in Crime No.746 of 2008, a charge sheet was filed and based on the same, a case was taken on file in C.C.No.5123 of 2010 on the file of the III Metropolitan Magistrate, George Town. As a counter blast to the aforesaid criminal case, the second respondent herein has lodged a false complaint implicating the petitioner herein as co-accused. He further submitted that it is palpable that the petitioner herein has relinquished all his right, title and interest in respect of the above property long back as early as 01.08.2007 and hence by no stretch of imagination, the petitioner would have been present himself in the scene of occurrence on 13.04.2009 to assist the demolition said to have happened on 13.04.2009. He further submitted that as the petitioner sold the above property, he has nothing to do with the above property on and from the date of sale and the second respondent herein has prior animosity towards the petitioner herein, hence she has falsely implicated the petitioner without any materials. He further submitted that as per the complaint, the patrolling police came and rescued the defacto complainant and her husband and in such a case, if the petitioner was present at the scene of occurrence, the patrolling police would have arrested him.

16. He further submitted that the first respondent police did not arrest the petitioner at any point of time but filed an absconding charge sheet against him. He further submitted that the first respondent police not at all examined the petitioner and if he was examined by the police, he would have informed the police, the true facts. He further submitted that no specific overt act was alleged as against the petitioner. On the contrary, only vague and bald allegations have been made against the petitioner and therefore, he prayed to quash the proceedings against the petitioner herein in the aforesaid Calender Case.

17. Per contra, the learned counsel for the second respondent/defacto complainant has submitted that the land and superstructure consisting of shops and factory sheds situated in Door No.511, present New Door No.4 (old Door No.278-A), Mint Street, George Town comprised in S.No.600/2 and 600/3 (part) measuring an extent of Nine grounds (21,600 sq.ft.) was originally possessed and enjoyed by the second respondent's father-in-law late Thiru.T.N.Subramaniam Mudaliar since 1940. He further submitted that the late TN.Subramaniam Mudaliar had developed the land and constructed several shops and factory sheds and let out the same to 32 tenants and collected the monthly rent from all the tenants and paid the property tax and water tax, therefor from 1950 onwards till his death on 04.08.1988. He further submitted that after the death of

T.N.Subramaniam Mudaliar, his legal heirs have executed a release deed in favour of the husband of the second respondent namely Thiru.T.N.S.Ravikumar and he is in possession and enjoyment of the same as absolute owner.

18. He further submitted that in the month of September 2007, Mr.Vinodkumar (A1) Managing director of M/s. Cosmo Foundation Limited purchased the Crown theatre property bearing Door No.500, Mint Street measuring 8 1/2 grounds, wanted to purchase the property of Mr.TNS.Ravikumar bearing Door No.511, Mint Street, which is situated adjoining Crown theatre in order to construct a mega commercial complex. The respondent's family refused to sell their property to A1 and hence A1 started to threaten her entire family members with dire consequences with the help of anti social elements and political persons forcing them to sell or otherwise demolish their property. Hence the second respondent had lodged a complaint on 02.12.2007 to local police. The local police did not enquire the complaint nor took any legal action. Hence she sent complaints to higher police authorities on 04.12.2007. The higher police authorities also did not take any action on the said complaint.

19. He further submitted that the second respondent's husband Mr.T.N.S.Ravikumar was forced to file a Civil Suit in O.S.No.2112 of 2008 on the file of IV Assistant Judge, City Civil Court, Chennai against A1 and A4 to A10 and obtained interim injunction. Despite the order of injunction, A1 and other tenants joined together and demolished a portion of the superstructure on 30.03.2008 and hence on complaint, the local police registered a case in Cr.No.214/2008 and after investigation charge sheet also filed and case was taken on file in C.C.No.6432/2008 on the file of VIII Metropolitan Magistrate George Town, Chennai and the same is pending.

20. He further submitted that during pendency of the aforesaid cases, A1, by making huge payment took possession from some of the tenants. He further submitted that RCOP proceedings were initiated against some of the tenants and eviction was ordered and the same was confirmed by the Appellate Authority also and subsequently Execution Petitions were filed and possession was taken by the second respondent's husband Mr.TNS.Ravikumar.

21. He further submitted that on 13.04.2009 at about 4.00 a.m., A1 to A15 and others assembled unlawfully armed with deadly weapons and trespassed into the property and demolished the superstructure measuring 3500 sq.ft. in premises bearing Door No.511 belonged to the second respondent's husband. He further submitted that on receipt of information from their watchman, the second respondent rushed to the spot along with

her husband and son-in-law and found that all the accused (A1 to A15) and other unknown persons with deadly weapons. On seeing them, the accused persons chased them and attempted to murder with threatens. Immediately, the second respondent and others have taken shelter at their office premises and bolted inside and sought help from the police by dialing '100'. The patrolling police have come for help and picked 20 persons among them and rescued safely. In this regard the second respondent has lodged a complaint with the police and an FIR was registered under various sections and after investigation charge sheet also filed and case is pending in C.C.No.2288 of 2011 on the file of Chief Metropolitan Magistrate, Egmore and the same is pending.

22. He further submitted that in order to grab the valuable property belonged to the husband of the second respondent, A1 has lodged a false complaint before Central Crime Branch, Chennai against the second respondent and her family members alleging that the release deed executed between her family members is forged and fabricated and claimed that the property bearing Door No.512 was purchased by him from A2 and A3 under a registered sale deed dated 12.09.2007 and influenced the police and accordingly, the police has registered a false case in Cr.No.746/2008 under Sections 465, 467, 468 r/w 471 and 109, 120-B and 420 IPC, without holding an preliminary enquiry.

23. He further submitted that in the meanwhile, A1 filed six Civil Revision Petitions before this Court against the order of recording of deliver of possession, but this Court has dismissed the said Civil Revision Petitions. He further submitted that during pendency of the aforesaid Civil Revision Petitions, A1, by his influence got arrested the second respondent's husband and his two brothers on 28.08.2009 through CCB and they remanded to judicial custody for 15 days. When they were in judicial custody, A1-A13 joined together and took several signatures in readily typed stamped papers, blank green papers from all the remaining other family members of the second respondent by coercion and arrested with the help of CCB police and took them to the Sub-Registrar Officer, and got the deed of cancellation of release deed dated 03.09.2009 making false recitals of non-existence of Door No.511 not belong to them, subsequently registration of the said document was refused by the SRO, Sowcarpet.

24. He further submitted that subsequently A1 delivered the said cancellation deed of release deed to the CCB and based on that charge sheet has been filed and case was taking on file as CC.No.5123 of 2010 against the second respondent and her family members, it is pertinent to note that CCB has miserably failed to note that the second respondent's husband's property is in Door No.511, but A1 purchased Door No.512 /1 and are entirely different properties.

25. He further submitted that the District Registrar, Chennai North has revoked all the bogus documents such as rectification deed, cancellation of release deed by the order dated 08.05.2012. He further submitted that the Civil Revision Petitions filed before this Court by A1 were dismissed and SLPs also dismissed by the Hon'ble Supreme Court. He further submitted that there are sufficient materials to proceed against the petitioner and hence he strongly opposed this petition.

26. The learned Government Advocate (Criminal Side) has adopted the arguments advanced by the learned counsel for the second respondent and requested to dismiss this petition.

27. This Court has carefully considered the arguments advanced on both sides and perused the records produced by them.

28. The petitioner has stated in his petition that the property under dispute originally belonged to one Palaniyandi Pillai by virtue of the registered sale deed dated 04.05.1910 and the said Palaniyandi Pillai executed a Will on 11.12.1927 in favour of his son P.Nataraja Pillai and appointed his other sons Ramasamy Pillai and Vadivelu Pillai as executors of the said Will. His further case is that the said Palaniyandi Pillai died on 19.05.1928 and thereafter, the Will came into force and hence, the said P.Nataraja Pillai became the absolute owner of the said property. His further case is that the said P.Nataraja Pillai died on 13.01.1957 leaving his widow N.Krishnammal and the said N.Krishnammal filed a Civil Suit in C.S.No.7 of 1959 on the file of this Court against the son of her brother-in-law in respect of her husband's share in the properties including the aforesaid property. His further case is that pending suit, the said N.Krishnammal executed a Will dated 28.08.1979 bequeathing the above property to her sister and appointed her son-in-law U.Thiyagarajan as the executor of the Will.

29. His further case is that after her death, the said U.Thiyagarajan contested the above suit as executor of the deceased N.Krishnammal and the above matter went up to the Hon'ble Supreme Court in Civil Appeal No.2085 of 1969 and after the order of the Hon'ble Supreme Court dated 12.08.1983, a Compromise decree was passed by this Court on 24.12.1993 and as per the said compromise decree, the aforesaid property was allotted to the branch of N.Krishnammal. His further case is that in the said compromise decree the names of the tenants were mentioned and one such tenant is Mr.T.N.Subramaniyan. His further case is that the said Mr.T.N.Subramaniyan had created false records as if he is the owner of the aforesaid property. His further case is that Mr.TNS.Ravikumar is the son of the said T.N.Subramaniyan and the defacto complainant namely, Tmt.Aruna Ravikumar is the wife of the said TNS.Ravikumar. He also filed

a copy of the compromise decree passed in C.S.No.7 of 1959 dated 24.12.1993 in which, it is stated that Mr.T.N.Subramaniyan is one of the tenants.

30. The petitioner's further case is that he along with his brother Rajavelu and mother T.Meera had sold the aforesaid property to the accused No.1 under a registered sale deed dated 12.09.2007 and thereafter, he is not concerned with the said property. He also filed a xerox copy of the said sale deed. The second respondent filed a counter but not denied the averments made by the petitioner that he along with his brother and mother had sold the aforesaid property to the first accused under a registered sale deed dated 12.09.2007. So, it appears that the second respondent is not disputing the fact that the petitioner herein along with his family members had sold the aforesaid property to the first accused under a registered sale deed dated 12.09.2007.

31. In the complaint lodged before the police dated 13.04.2009, the second respondent has stated that on 13.04.2009 at about 4.00 a.m., she has received a phone call from her watchman, Thiru.Pitchipillai who informed her that 35 persons both gents and ladies along with AR.Vinod Kumar(A1), R.Udayakumar(A2), Rajanarayanan, (petitioner herein) and others came with deadly weapons and demolished their buildings with two JCB Bulldozers and immediately she, her husband Mr.TNS.Ravikumar and son-in-law Mr.Hariharasudan rushed to the spot and found that the aforesaid persons have demolished the building in entirety and on seeing them the aforesaid accused persons came towards them with deadly weapons in order to murder them. She further stated that they have taken shelter at their office premises and bolted inside to save their lives and diales Telephone No.'100' at 4.20 a.m. and patrolling police came and dispersed all the accused persons and picked up 20 persons among them and rescued them safely.

32. In the statements recorded under Section 161(3) Cr.P.C., also she has reiterated the same allegations. But, she has not specifically stated that the petitioner herein was armed with what kind of weapon. She has simply stated that the aforesaid persons were armed with deadly weapons. The other witnesses also have stated that the aforesaid persons with an intention to murder them came with deadly weapons such as sticks, rods, long Aruval and Knife but they have not specifically stated which person holds which weapon. So, it appears that the witnesses gave statements before the police with vague and bald allegations.

33. It is also to be pointed out that according to the second respondent, the patrolling police came there and picked up 20 persons. If really the petitioner was also there, he also

would have been arrested by the patrolling police. But, the petitioner herein was not arrested by the police. As per the status report filed by the first respondent, A1, 14 and 15 alone were arrested on 13.04.2009 and remanded to judicial custody and other accused persons were not arrested. The petitioner herein appeared before the Court only on summons.

34. The learned counsel for the second respondent has submitted that though the first accused has taken a plea in CRP.No.1627 of 2009 to CRP.No.1632 of 2009, that he had taken possession of the aforesaid property from some of the tenants and demolished the building on 30.03.2008, this Court has rejected the said contention and only through Court, the possession was handed over to one Sakunthala, who is wife of T.N.Subramaniyan between 30.1.2009 and 16.02.2009 and hence, the contention of the petitioner that already possession was given to the first accused is false.

35. The operative portion of the order passed by this Court in the aforesaid Civil Revision Petitions reads thus:-

> "18. In the result, the Civil Revision Petitions, being devoid of merits, are dismissed. However, it is open to the revision petitioner to challenge the order passed in E.P.Nos.33 to 37 and 61 of 2009 in the manner known to law, and the observations made by this Court will not prejudice the rights of the parties and the observations are made only for deciding, whether any fraud has been practiced upon the Court, as alleged by the revision petitioner. In case, the revision petitioner filed any application or initiates any proceedings, challenging the recording of delivery, the Court which deals with such application is directed to dispose of the same, on merits and in accordance with law, without being influenced by any of the observations made in these revision petitions. No costs. Consequently, connected Miscellaneous Petitions are closed."

36. So, it is clear that in the aforesaid Civil Revision Petitions, this Court has decided only the question as to whether any fraud has been practiced upon the Court as alleged by the first accused while recording the delivery of possession and other aspects have not been dealt with. As against the aforesaid order, the first accused has filed SLP before the Hon'ble Supreme Court. The Hon'ble Supreme Court also dismissed the said SLP but gave liberty to the first accused to challenge the order of delivery.

37. At this juncture, it would be relevant to refer to para No.3 (e) of the counter statement filed by the second respondent which reads thus:-

> "(e) While above case is pending, A-1 Vinoth Kumar lured the tenants & namely (1) T.N.Narasimhan (A-4) (2) S.R.Balakrishnan A-5 (3) A.Rajagopal (A-6) (4) M.J.Venkatesan (A-7) (5) Thanikachalam (A-8) (6) Selvaraj Janakiraman (A-9) & (7) G.Kannappan (A-10) made to vacate tenancy portions, adjoining the Crown theater property by making huge payment and took the possession of the same. The tenants have also delivered the possession of their tenancy portion to A-1 & A-3 on receipt of huge money. Subsequently the tenants made to declare the A-3 as their landlord thereby they denied the title of her husband Thiru.TNS.Ravikumar relating to Door No.511, Mint Street, Chennai-79."

38. From the aforesaid averments, it is clear that the second respondent/defacto complainant has admitted that the first accused lured tenants namely, the accused Nos.4 to 10 and made them to vacate the tenancy portion and took the possession of the same. Further she has admitted that the tenants have also delivered the possession of their tenancy portion to A-1 & A-3. The aforesaid statements are totally contradictory to the allegation made by the second respondent in her complaint. In the complaint she has stated that on 13.04.2009, the petitioner herein along with other accused persons trespassed into the aforesaid property. If already the accused Nos.1 and 3 took possession of the property, then the question of trespass will not arise.

39. The learned counsel for the second respondent further contended that the first accused influenced the police and gave a false complaint in Cr.No.746 of 2008 before the Central Crime Branch Police and arrested the second respondent's husband and his two brothers on 28.08.2009 and remanded to judicial custody and when they were in judicial custody, A1-A13 joined together and took several signatures in readily typed stamped papers and blank green papers from all the remaining other family members of the second respondent and under coercion and took them to the Sub-Registrar Office and got the cancellation of the release deed and subsequently they got deed of declaration. He further submitted that on complaint, the District Registrar, after due enquiry cancelled the said cancellation deed of release deed and the deed of declaration and therefore, no reliance can be placed upon the cancellation deed of a release deed.

40. Per contra, the learned Senior Counsel for the petitioner has submitted that the accused No.1 had filed W.P.No.26912 of 2012 before this Court challenging the order of

the District Registrar dated 08.05.2012 and obtained interim stay on 05.12.2012 and therefore, the second respondent cannot rely upon the order passed by the District Registrar. A perusal of copy of the order passed by this Court in M.P.No.1 of 2012 in W.P.No.26912 of 2012 dated 05.12.2012 would show that the order passed by the District Registrar setting aside the cancellation deed of release deed dated 08.05.2012 has been stayed by this Court. Under the said circumstances, the second respondent cannot rely upon the order passed by the District Registrar.

41. It is to be pointed out that the husband of the second respondent namely, Mr.TNS.Ravikumar, had obtained a release deed from his mother and others on 22.08.2005. The first accused A.R.Vinod Kumar has lodged a complaint against the husband of the second respondent before the Central Crime Branch alleging that he has forged the documents and based on the same, the Central Crime Branch has registered a First Information Report in Cr.No.746 of 2008 and after investigation a charge sheet has been filed under Sections 420, 465, 471 read with 120(b) IPC against the said Mr.TNS.Ravikumar, the second respondent herein, and 8 others and based on the same, the III Metropolitan Magistrate, Chennai, has taken the case on file in C.C.No.5123 of 2010 and the same is still pending.

42. It is also to be pointed out that already one case was pending against the accused No.1 and others in respect of the allegation that they have demolished a portion of the building. Likewise one criminal case is pending against the second respondent and her family members as they have created false documents. This is the third criminal case between the parties. Though the parties have approached the police by making allegations and counter allegations, they have not chosen to file Civil Suits before the Civil Court to declare their title over the aforesaid property. It shows that both the parties do not want to settle the issue before the Civil Court. If they are having documentary evidence to substantiate their claim, they should have approached the Civil Court and establish their title before the Civil Court and instead of doing so, they want to take the property by short cut method by approaching the police. The dispute relates back to the year 1959. It is not known how the police can solve the said dispute by filing this kind of case.

43. Insofar as, the petitioner herein is concerned, he has already sold the property to the first accused on 12.09.2007. Further in the complaint and also in the statements recorded under Section 161(3) Cr.P.C., the defacto complainant and other witnesses have made only bald and vague allegations against the petitioner herein, as he was in the place of occurrence armed with deadly weapons along with other accused persons, but, no specific overt act was alleged against the petitioner herein. Further, though the second respondent has stated in her

complaint that patrolling police came to the scene of occurrence and picked up 20 persons, if really the petitioner herein was also present, he would have been arrested by the police. So, it appears that due to the civil dispute, the petitioner herein has been roped in the above case. Taking into consideration of all the aforesaid facts, this Court is of the view that the continuance of the proceedings against the petitioner herein would amount to abuse of process of the Court. Therefore, this Court is inclined to allow this petition.

44. In the result, this petition is allowed. The proceedings in C.C.No.2288/2011 is quashed against the petitioner herein alone. The Chief Metropolitan Magistrate, Egmore, Chennai is directed to proceed against the other accused persons and dispose of the case in CC.No.2288 of 2011 in accordance with law, uninfluenced by any of the observations made by this Court in this order. Consequently, connected Miscellaneous Petition is also closed.

dna

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To
1. The Chief Metropolitan Magistrate,
   Egmore, Chennai.

2. The Sub-Inspector of Police,
   C-3, Police Station,
   Seven Wells, Chennai-79,

3. The Public Prosecutor,
   High Court, Madras.

Copy to:-

The Section Officer,
Criminal Section,
High Court, Madras - 104.

+1cc to Mr.K.Rajasekaran, Advocate, SR.No.38126

Crl.O.P.No.23481 of 2013
and
M.P.No.1 of 2013

Kak(19/07/2019)