

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.08.2019

CORAM

THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

Crl.O.P No.20161 of 2015

1.Lakshmi

2. Kumar @ Mohankumar

3. Shanthi Mohan

... Petitioners

-Vs-

1.State, Represented by  
Inspector of Police,  
Cyber Crime Cell,  
District Crime Branch,  
Coimbatore.

2. R.Gowriammal @ Gowri

...2nd Respondent /  
Defacto Complainant

PRAYER: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to call for the records relating to the FIR in Crime No.43 of 2015 on the file of the 1st respondent police.

For Petitioner : Mr.S.Abubacker Sidhiq  
for Mr.R.G.Narendhiran

For Respondent : Mr.C.Raghavan  
No.1 Government Advocate (Crl. Side)

सत्यमेव जयते  
Mr.M.Radhakrishnan for R2

ORDER

This Criminal Original Petition has been filed seeking to quash the FIR in Crime No.43 of 2015, pending investigation on the file of the 1st respondent police.

2. The case of the prosecution is that the 2nd respondent is the 1st wife of one Rathinam and out of the said wedlock, she has one daughter and three sons. The property was purchased jointly, measuring an extent of 1.97 ½ acres at Ganapathy Village, in the year 1980. Subsequently, the 2nd respondent's husband died in the year 1998 and one of the son died in the

year 1982. As legal heir, she is entitled to an extent of 39 ½ cents. While so, on verifying the encumbrance certificate, she found that one Lakshmi, who is the 1st petitioner along with the other accused persons have dealt with the property and a settlement deed has been executed by the said Lakshmi in favour of her son Kumar alias Mohan Kumar on 13.07.2007 and the same was also registered as Document No.3983 of 2007. Therefore, a complaint came to be given to the respondent police on the ground that the petitioners have indulged in creating a false document and the same amounts to an offence of forgery, cheating and criminal intimidation and since all of them have done it together, there was also criminal conspiracy involved in the offence.

3. The learned counsel for the petitioner submitted that even if the entire allegation made in the complaint are taken as it is, no offence of forgery has been made out in this case. The learned counsel for the petitioner submitted that the allegations made in the complaint do not amount to creation of false documents. If the offence of forgery is not made out, consequently, the offence of cheating is also not made out in this case. The learned counsel submitted that the offence of criminal intimidation has been added without there being any materials to substantiate the same.

4. The learned counsel for the petitioner further submitted that the 1st petitioner did not want to aggravate the situation any further and therefore, she executed a cancellation deed on 01.07.2015 and thereby, the settlement deed dated 13.07.2007 was canceled. The learned counsel submitted that in view of this development, the continuation of the criminal proceedings will tantamount to an abuse of process of law.

5. The learned counsel appearing on behalf of the defacto complainant submitted that the 1st petitioner had intentionally made use of a false legal heir certificate and had intentionally grabbed the property, belonging to the 2nd respondent. The learned counsel submitted that even after the execution of the document, the 2nd respondent requested the 1st petitioner to cancel the document and since the same was not canceled, she had given a complaint against the accused persons. The learned counsel submitted that the 2nd respondent who is a aged lady, is being put to constant threat by the petitioners and therefore, the investigation should not be interfered at this stage and time limit should be fixed for the completion of the investigation.

6. The learned Government Advocate appearing on behalf of the respondent police submitted that there was no progress in investigation, since this Court had granted a stay of

investigation in the year 2015. The learned counsel further submitted that a time limit can be fixed by this Court for the completion of the investigation.

7. This Court has carefully considered the submissions made on either side and also the materials available on record.

8. This Court does not want to go into the question of law that has been raised in this petition, as to whether the settlement deed dated 13.03.2007 will amount to creation of a false document and will result in an offence of forgery. The 1st petitioner is aged about 76 years and the defacto complainant is aged more than 80 years. The settlement deed that was executed by the 1st petitioner in favour of her son has now been canceled by virtue of the deed of cancellation dated 01.07.2015. Therefore, virtually the earlier settlement deed has even set at naught and the status quo ante has been restored.

9. In view of the above development, no useful purpose will be served in continuing with the criminal proceedings, more particularly, due to the fact that the parties are known to each other and they are at the evening of their lives.

10. The Criminal proceedings will only put the parties to further hardship, since even a preliminary investigation has not even started in this case.

11. In the result, the FIR in Crime No.43 of 2015 is hereby quashed and accordingly, this Criminal Original petition is allowed.

rka

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

1. The Inspector of Police,  
Cyber Crime Cell,  
District Crime Branch,  
Coimbatore.

2. The Public Prosecutor  
High Court of Madras.

Cr1.O.P No.20161 of 2015

Kak(18/09/2019)