

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.04.2019

CORAM

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN
CRL.O.P.No.19339 of 2017
and
Crl.M.P.No.11708 of 2017

1.S.Srinivasan
2.V.Sivakumar

... Petitioners

Vs

1.The Inspector of Police,
Anti Land Grabbing Special Wing,
Cuddalore,
Cuddalore District.

2.R.Vishwanathan
3.V.Rajeswari
4.K.Manoranchitham
5.R.Elango
6.R.Chenguttuvan
7.R.Somasundaram

... Respondents

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C, to call for the records from the 1st respondent and quash the summons issued by the 1st respondent in SPGP No.2007 of 2017.

For Petitioner : Mr.D.Baskar
For R1 : Mr.M.Mohamed Riyaz
Additional Public Prosecutor
For R2 to R4 : No appearance
For R5 to R7 : Mr.P.Sreenivasulu

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O R D E R

This Petition has been filed to challenge the summons issued by the first respondent in SPGP No.2007 of 2017.

2. The learned counsel for the petitioners submitted that originally, one Annamalai was the owner of the subject land and he has leased out his land to the 1st petitioner very long back. The said Annamalai's wife Vasantha and his son Subramaniam predeceased him. Since nobody is there to

take care of him at his old age, he preferred to stay at Pondicherry Society for the Care of the Aged. Thereafter, for want of money as well as his age factor, he wanted to dispose of his suit property. The 2nd petitioner's father Velayudham negotiated for purchase of the said land. When all arrangements were made to register a sale deed, the Sub-Registrar raised objection stating that sale deed will not be registered in the name of anybody else, when the property is in possession of the lessee, i.e., the 1st petitioner herein. Therefore, an arrangement was made between 1st petitioner and said Velayudham that Velayudham should pay the sale consideration to Annamalai, the original owner of the property, a sale deed should be taken in the name of the 1st petitioner i.e., the lessee and thereafter it should be sold to the 3rd party. Thus the sale deed was executed in favour of the 1st petitioner. Thereafter, the said Annamalai also died. While executing the sale deed, according to the petitioner, the scribe has wrongly affixed the photograph of said velayutham instead of Annamalai, but the thumb impressions were that of the said Annamalai. Hence, the respondents 2 to 7, who were no way related to the said Annamalai claims ownership and possession of the property. The respondents have filed a suit in O.S.No.263 of 2017 before the Principal District Munsif, Cuddalore, and the same is pending. While the suit is pending, the respondents 2 to 7 also lodged a criminal complaint before the 1st respondent police and the 1st respondent issued summons to the petitioners in SPGP No.2007 of 2017, to come and attend the enquiry. Challenging the said summons, the petitioner has filed the present petition with the aforesaid prayer.

3.The learned counsel for the petitioner submits that except the mistake committed by the scribe that instead of Annamalai's photo, Velayudham's photo has been affixed, otherwise, the sale deed is a valid one. The learned counsel further submits that the respondents cannot file a suit as well as a criminal complaint simultaneously for the same relief. Hence, he seeks to quash the summons issued by the 1st respondent police.

4.Per contra, the learned counsel for the respondents 2 to 7 submitted that they are the relatives of the wife of Annamalai and the said Annamalai due to his old age, has orally gifted the suit property to the respondents. He further submitted that the petitioner have forged the photograph of Annamalai and registered the sale deed. Therefore, the petitioners have committed offence and hence they objected to quash the summons and prays for dismissal of the petition.

5.Heard the Mr.D.Baskar learned counsel for the petitioners, Mr.M.Mohamed Riyaz learned Additional Public Prosecutor for the first respondent and Mr.P.Srinivasulu, learned counsel for Respondents 5-7.

6.On perusal of records, it is seen from the sale deed, executed by Annamalai, the photograph of said Annamalai was wrongly affixed with the photograph of Velayutham. Hence, there is dispute between the petitioner and the respondents 2 to 7 herein. In this regard, the private respondents also filed suit in O.S.No.263 of 2017, which is pending for trial. Even though, a Civil suit is pending, it is not par to lodge a complaint. Accordingly the private respondent 2 to 7 lodged a complaint. Thereafter, a complaint was also lodged in this regard before the 1st respondent. On receipt of the same, the first respondent issued only summons, which is under challenge now. The complaint involves so many allegations and it has to be enquired. Even assuming that, the petitioners are bonafide purchasers, they have to attend enquiry conducted by the 1st respondent and submit all the documents and connected records before the first respondent.

7.Considering the above facts and circumstances of the case, this Court finds no merits in this petition. Hence, this Criminal Original Petition is dismissed. Consequently, connected Miscellaneous petition is closed. However, the petitioners are directed to appear before the 1st respondent for enquiry. Considering the fact that the complaint is pending from the year 2017, the first respondent is directed to conduct the enquiry and complete the same within a period of eight weeks from the date of receipt of a copy of this order.

Sd/-

Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

mpa
To

1.The Inspector of Police,
Anti Land Grabbing Special Wing,
Cuddalore,
Cuddalore District.

2. The Public Prosecutor,
High Court of Madras.

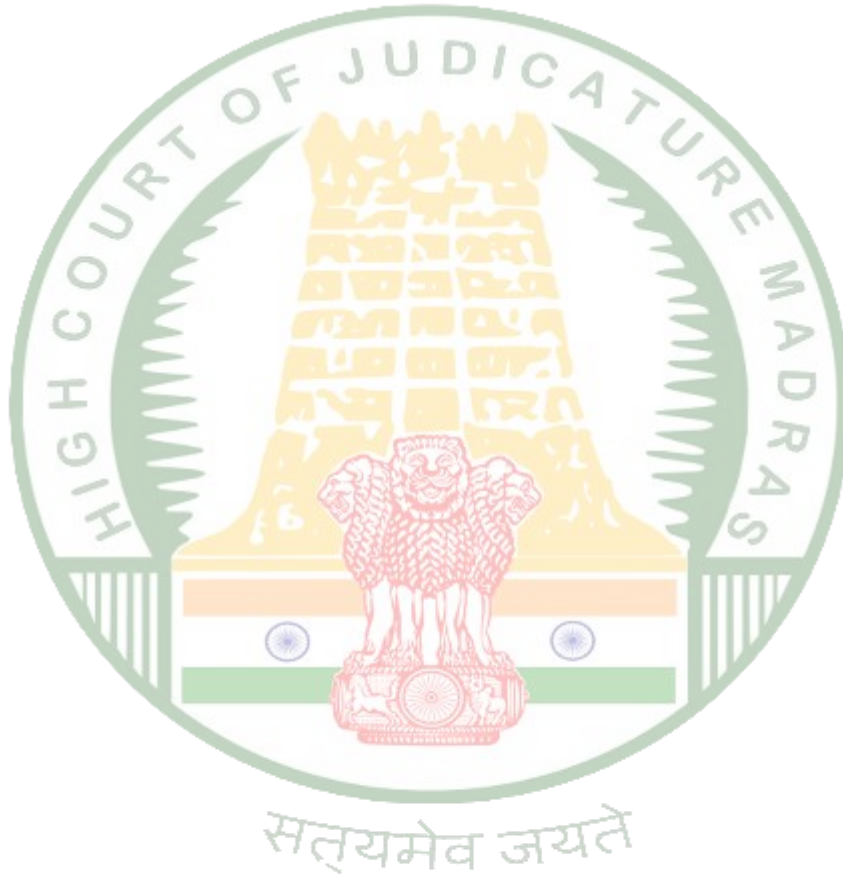
+lcc to Mr. R.Gururaj, Advocate SR.No. 32646

+lcc to Mr.P.Sreenivasulu , Advocate SR.No. 33174

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and

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A.SK(10/06/2019)



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