



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 26.02.2019

CORAM:

THE HONOURABLE MR.JUSTICE N.SESHASAYEE

Crl.O.P.[MD]No.2913 of 2019

R.Subramainan

: Petitioner

Vs.

1.The Superintendent of Police,
Tirunelveli District,
Tirunelveli.

2.The Inspector of Police,
Anti-Land Grabbing Special Cell,
Tirunelveli.

3.Muthaiah

4.Avudaiammal

5.Muthukumar

: Respondents

PRAYER : Criminal Original Petition is filed under Section 482 of Cr.P.C. to set aside the impugned order dated 30.11.2018 passed in Crl.M.P.No.850 of 2018 on the file of the learned Special Land Grabbing Court, Tirunelveli and consequently direct the respondent police to register FIR and to file a final report after thorough investigation.

For Petitioners

: Mr.P.M.Vishnuvarthanan

For R-1 & R-2

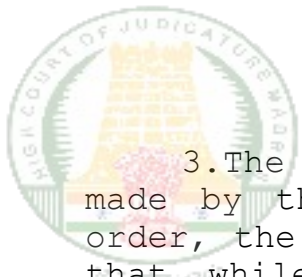
: Mr.V.Neelakandan

Additional Public Prosecutor

ORDER

The present petition is filed challenging the order of the learned Special Land Grabbing Judge, Tirunelveli dated 30.11.2018 in Crl.M.P.No.850 of 2018 by which he has taken a private complaint preferred under Section 156(3) Cr.P.C.

2.The quintessence of the allegation in the said complaint is that the petitioner herein has preferred a complaint alleging that he owned a piece of ancestral property measuring about 89 1/2 cents in Survey No.612/5, that the first respondent had settled another block of 1.25 acres in favour of his wife, that for effecting the same Village Officer has issued a certificate, which according to the petitioner is fabricated one.



3. The learned Magistrate has carefully weighed the allegation made by the petitioner and has rejected the complaint. In his order, the learned Magistrate has reasoned that it becomes apparent that while the petitioner has title over the portion of the property, the first respondent inasmuch as he has shown the property of the petitioner as his western boundary in the settlement deed that he has executed in favour of his wife, there cannot be any dispute as to any fabrication of the document. This Court concurs with the reasoning of the Magistrate. Suffice to say for the present, if there is any dispute over issuance of any joint patta, then the petitioner has to move the Revenue Court seeking remedy. If there is any dispute over the title then that is the matter to be resolved by the Civil Court. In this context, the petitioner has not even seek the total extent in Survey No.612/5 but has only made one accusation that the Village Officer has fabricated the certificate as if the first respondent has to some interest to some extent over the piece of property in Survey No.612/5. Unless a complaint on the basis of it indicates criminal intent to fabricating a document, it may not be appropriate to take cognisance of the offence in the complaint.

Under such circumstances, this Court does not find any merit in this petition and the Criminal Original Petition is dismissed.

Sd/-

Assistant Registrar(Crl.Side)

/TRUE COPY/

Sub Assistant Registrar(CS)

To

1. The Superintendent of Police,
Tirunelveli District,
Tirunelveli.
2. The Inspector of Police,
Anti-Land Grabbing Special Cell,
Tirunelveli.
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to M/s.P.M.VISHNUVARTHANAN, Advocate (SR-50338[F] dated 27/02/2019)

Crl.O.P.[MD]No.2913 of 2019