



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 21.03.2019

CORAM

THE HONOURABLE MR.JUSTICE N.SESHASAYEE

Cr1.O.P(MD).No.12286 of 2018 and
Cr1.M.P(MD).No.5573 of 2018

R. Balasubramanian

.. Petitioner

Vs.

1.The Inspector of Police,
Anti Land Grabbing Special Cell,
Karur, Karur District.

2.S. Venugopal

.. Respondents

Prayer: This Criminal Original Original Petition is filed under Section 482 Cr.P.C., to call for the records relating to the Charge Sheet dated 17.03.2015 filed in C.C.No.40 of 2018, on the file of the Chief Judicial Magistrate, Karur and quash the same.

For Petitioner : Mr. V. Sitharandandas
For Respondent No.1 : Mr.A.P.G. Ohm Chairma Prabhu
Government Advocate (Cr1. Side)
For Respondent No.2 : Mr. A. Thiruvadikumar

ORDER

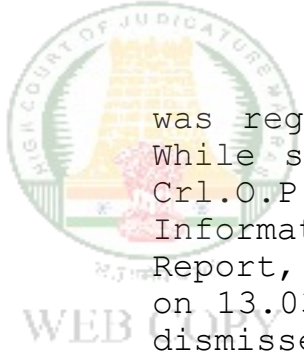
The present petition is filed by A1 in C.C.No.40 of 2018, for quashing the charge sheet filed by the first respondent in Crime No. 19 of 2014.

2. The basic facts are not controverted to a substantial extent and they are narrated as below:

(i) A piece of property measuring 10.25 Cents in S.No.30 of Keezhpagam Village, Karur, originally belonged to a certain Ganesan, and that on 18.02.1994, this property was sold to certain Kandasamy. On 24.11.2004, Kandasamy executed a General Power of Attorney in favour of the petitioner, A1 in the case. On the strength of Power of Attorney, on 08.11.2005, A1 had executed a sale deed in favour of A2 in describing the property sold with boundaries. The northern boundary of the Plot sold to A2 is described as the property of one Periyasamy and A2. While so, on 21.03.2014, the second respondent Venugopal had preferred a complaint alleging that the property to the immediate north of the aforesaid 10.25 Cents belonged to him, and the northern boundary description given in the sale deed in favour of A2 as latter's property is mischievously done to grab his property.

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(ii) Based on this complaint a case in Crime No.19 of 2014,



was registered under Sections 120(b), 420, 465 and 506(i) IPC. While so, the petitioner herein had approached this Court with Crl.O.P(MD).No.21326 of 2014 for quashing the said First Information Report. During the pendency of the First Information Report, the charge sheet was laid on 17.03.2015. Consequently, on 13.03.2018, the said Crl.O.P(MD).No.21326 of 2014, came to be dismissed granting liberty to the petitioner to challenge the final report. Hence, the petitioner is before this Court now, for seeking the final report laid by the first respondent be quashed.

(iii) However, before filing this petition, the petitioner claims that he had issued a notice, dated 05.04.2018 to A2 to come forward to rectify the northern boundary description in the sale deed. As the second accused did not evince and interest to cooperate with the petitioner to have the boundary description rectified, the petitioner has laid O.S.No.156 of 2018, before the Additional District Munsif Court, Karur, for the said purpose, and the same is pending.

3.1. Narrating the entire events, the solitary point emphasized by the petitioner is the entire case is civil in nature and that a wrong boundary description per se will not constitute an offence.

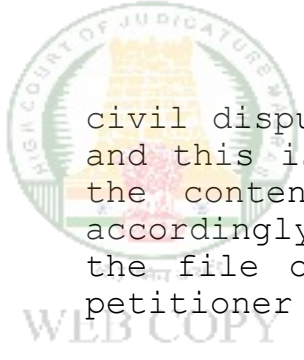
3.2. Heard the learned counsel appearing for the petitioner and the learned Government Advocate (Criminal Side) appearing for the first respondent and the learned counsel appearing for the second respondent. They in unison would argue that the northern boundary description as has been given in the sale deed executed by A-1 in favour of A2 is a conspiracy to grab the property of the de facto complainant, and it is done into a dominant motive. The statements of witnesses cited by the prosecution also brought to the notice of this Court.

4. As this Court took a close look at the allegations made, it has to state that every ounce of the allegations made would only constitute a dispute in civil law. A wrong boundary description by itself cannot take away the right or title over one's property. It is not a case of the prosecution that A1 has impersonated or fabricated some documents transferring the title of the defacto complainant to another person. So if A1 had attempted any act such as that, it is not possible to allege that an offence might be said to have been committed. But that is not to be.

5. As stated earlier a mere wrong description of the boundary without anything more cannot take away the title of any person who actually owns the property. The second respondent easily could have approached the civil court for remedy, if only title his has been affected, especially when he is not a party to the sale deed which A1 had executed in favour of A2.

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6. In conclusion, this Court holds that this is a classic case of a



civil dispute that has been given the complexion of a criminal case and this is impermissible in law. Hence, this Court finds merit in the contention of the learned counsel for the petitioner and accordingly quash the charge sheet in C.C.No.40 of 2018, pending on the file of the Chief Judicial Magistrate, Karur only as against petitioner / A1 concerned.

7. In the result, this Criminal Original Petition is allowed. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (AE)

// True Copy //

Sub Assistant Registrar(CS)

To

1.The Inspector of Police,
Anti Land Grabbing Special Cell,
Karur, Karur District.

2. The Chief Judicial Magistrate, Karur

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

+1cc to Mr.V.SITHARANJANDAS, Advocate, SR.No.55864

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