



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 02.08.2019

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THE HONOURABLE MR.JUSTICE V.BHARATHIDASAN

CRL.O.P. (MD) .No.10287 of 2016

and

Crl.M.P. (MD) .Nos.5103 of 2016 and 7315 of 2018

1.Veerayee
2.Mayalagu
3.Duraimurugan
4.Manimaran

: Petitioners

Vs.

1.The State represented by
The Inspector of Police,
District Crime Branch,
Sivagangai District.
(Crime No.06 of 2016)

2.Muthuramalingam

: Respondents

PRAYER: Petition is filed under Section 482 of the Criminal Procedure Code to call for the records of the First Information Report in Crime No.06 of 2016, dated 16.02.2016 on the file of the first respondent herein and quash the same.

For Petitioner	: Mr.R.Boomirajan
For R-1	: Mr.K.Suyambulinga Bharathi, Government Advocate (Crl. side)
For R-2	: Mr.N.Madhava Govindan

ORDER

This Criminal Original Petition has been filed to quash the First Information Report in Crime No.06 of 2016, dated 16.02.2016, on the file of the first respondent herein. The petitioners are arrayed as Accused Nos.1 to 4 in the above said crime and the crime has been registered for the offences under Sections 468, 471, 420 and 120(b) of the Indian Penal Code. Now to quash the above said criminal proceedings, the present petition has been filed.

2. The case of the petitioners is that, the second respondent / *defacto* complainant is the step brother of the first petitioner. A property in Survey No.10/131, measuring at 0.16.0 Acres, at Thavikulam Village, Kirungakottai Group, Manamadurai Taluk, Sivagangai District, is a self acquired property of his father Sedhuraman, during his life time, his father executed an un-



registered settlement deed settling the above property in favour of the first petitioner. Thereafter, the first petitioner sold the property to the fourth petitioner herein and patta also changed in his name. Challenging the same, the second respondent filed an appeal before the District Revenue Officer, Sivagangai. The District Revenue Officer passed an order in favour of the petitioners. Challenging the order, the second respondent / *defacto* complainant, has filed a Writ Petition before this Court in W.P.(MD).No.1121 of 2013, and this Court by an order dated 01.07.2014 set aside the order passed by the District Revenue Officer on the ground that it is a title dispute between the parties, and directed the authorities to consider the request of the first petitioner herein, to make correction in the UDR Patta after hearing all the parties and further directed the first petitioner, to approach the competent Civil Court to decide the title. The District Revenue Officer again rejected the claim of the second respondent / *defacto* complainant herein. Challenging the same, the second respondent filed a Writ Petition in W.P.(MD). No.16771 of 2015. On 22.02.2016, this Court closed the Writ Petition on the ground that it is only a civil dispute between the parties and directed both the parties to approach the Civil Court. Thereafter, the first petitioner filed a civil suit in O.S.No.24 of 2016 before the District Munsif Court, Manamadurai. In the meantime, alleging that the first petitioner has forged some documents, the complaint has been filed and it was registered as Crime No.06 of 2016, now investigation on the same is pending. To quash the above said proceedings, the present petition has been filed. Earlier, this Court has granted stay of all further proceedings. Now to vacate the stay, the second respondent / *defacto* complainant, filed a petition.

3. The learned counsel appearing for the second respondent / *defacto* complainant, would contend that, no settlement deed has been executed in favour of the first petitioner by his father, based on the forged settlement deed, the patta has been granted in her favour. since the first petitioner has forged the document, the complaint has been filed, and investigation is pending. Proper investigation can only reveal the fact that whether the document is forged or not. The complaint has made out the *prima facie* case against the petitioners, hence the First Information Report need not to be quashed.

4. The learned Government Advocate (Criminal side) appearing for the first respondent submitted that already an interim stay has been granted by this Court, hence, the respondent Police are not conducting investigation in the present criminal proceedings.

5. I have considered the rival submissions made on either side and also perused the records carefully.



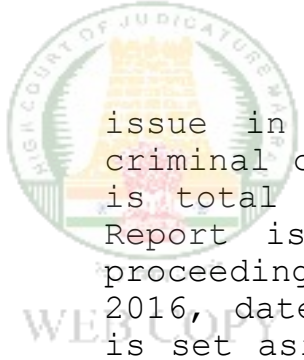
6. The complaint has been filed against the petitioner on the ground that, the property is a self acquired property of the father of the first petitioner as well as the second respondent / *defacto* complainant. During his life time, their father did not execute any settlement deed in favour of the petitioners / accused. But the first petitioner has forged the signature of his father and created a settlement deed. Thereafter, she obtained patta in her favour and sold the property, thereby committed forgery and cheating. Hence, the second respondent / *defacto* complainant has filed a complaint and the same is now pending investigation.

7. From the perusal of the record, it is seen that earlier based on the disputed settlement deed, the petitioner has obtained patta in her favour. Challenging the order, the second respondent / *defacto* complainant filed a Writ Petition in W.P.(MD). No.1121 of 2013 before this Court to set aside the orders passed by the District Revenue Officer and the Tahsildar and also to issue a joint patta in favour of the *defacto* complainant and his brothers and sisters. In the above Writ Petition, the *defacto* complainant has alleged that there is no settlement deed in favour of the accused herein and based on the forged settlement deed, a patta has been granted. But this court has set aside the impugned orders passed by the District Revenue Officer and the Tahsildar on the ground that it is only a civil dispute between the parties and without hearing all the parties the impugned orders are passed and further directed the District Revenue Officer, Sivagangai, to pass an order on the representation given by the first petitioner. Once again, the District Revenue Officer granted patta in favour of the accused. That was again challenged by the second respondent / *defacto* complainant in W.P.(MD).No.16771 of 2015 and this Court by an order dated 22.02.2016 closed the Writ Petition on the ground that it is only a civil dispute between the parties, and directed the parties to approach the competent Civil Court to decide the title. The relevant portion of the order reads as follows:-

"4.Considering the submissions of the learned counsel appearing on either side, it is made clear that the dispute between the petitioner and the fourth respondent is civil in nature, therefore, the same shall be agitated only before the Civil Court. The Civil Court shall take up the matter and decide as to whether the patta granted in favour of the fourth respondent is correct or not. It is also made very clear that the Civil Court shall pass orders, independently, without influenced any observation made in this order by the District Revenue Officer."

8. Now, a suit is also pending before the competent Civil Court.

9. Considering the facts and circumstances of the case, it is only a civil dispute between the parties and a Civil suit is also pending, and the validity of the settlement deed is the main



issue in the suit. Now the *defacto* complainant has given a criminal colour to the civil dispute and filed the complaint, which is total abuse of process of law. Hence, the First Information Report is liable to be set aside. Accordingly, the criminal proceedings initiated against the petitioners in Crime No.06 of 2016, dated 16.02.2016 on the file of the first respondent herein is set aside. However, it is open to the parties to approach the Civil Court to decide their title, over the disputed property.

10. This Criminal Original Petition stands allowed accordingly. Consequently, the connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(AS)

// True Copy //

Sub Assistant Registrar(CS)

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To

1.The Inspector of Police,
District Crime Branch,
Sivagangai District.

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

+1CC TO MR.N.MADHAVA GOVINDAN, Advocate Sr. No.79579

+1CC TO MR.P.R.BOOMEERAJAN, Advocate Sr. No. 80021

Order made in

CRL.O.P. (MD) .No.10287 of 2016

Dated: 02.08.2019

PM(CO)

TR (30.08.2019) 4P 5C