



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 02.12.2019

CORAM

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

CrI.O.P. (MD)No.4642 of 2017

and

CrI.M.P(MD)No.3300 of 2017

WEB COPY

1.Thirupathi
2.Velu

... Petitioners

Vs.

1.State through
The Inspector of Police,
Anti Land Grabbing Special Cell,
Madurai
[Crime No.05 of 2016]

2.Rajith Beevi

... Respondents

Prayer: Petition filed under Section 482 of the Criminal Procedure Code, to call for the records relating to the proceedings in C.C.No.15 of 2016 on the file of the learned Special Judicial Magistrate, Special Court for Exclusive trial of Land Grabbing Cases, Madurai and quash the same as against the petitioners alone.

For Petitioner: Mr.T.Amjad Khan
For Respondent: Mr.K.K.Ramakrishnan,
No.1 Additional Public Prosecutor
For Respondent: Mrs.Lakshmi Gopinathan
No.2 for M/s.Polax Legal Solutions

ORDER

This petition is filed by accused Nos.16 and 17 in C.C.No.15 of 2017 pending on the file of the learned Special Judicial Magistrate, Special Court for Exclusive Trial of Land Grabbing Cases, Madurai, to quash the proceedings pending against them in C.C.No.15 of 2017.

2.According to the petitioners, they are the bonafide purchasers of the properties purchased from accused Nos.1 to 15, that too, pursuant to a decree passed by a Civil Court.

3.The case of the prosecution is that the second respondent/ defacto complainant lodged a complaint that when she is alive accused Nos.1 to 15 have filed a suit before the III Additional Sub Judge, Madurai, to declare themselves as legalheirs of Rajith Beevi/ de facto complainant and obtained collusive compromise decree and pursuant to the same, they have obtained patta and sold the properties to accused Nos.16 and 17.



4.The learned Counsel for the petitioners submitted that the second respondent in the complaint itself has referred so many names that Rajitha Beevi @ Rajith Beevi Rajitha and Rajith and the conduct of the de facto complainant in having so many surnames or alias names, would itself show that the de facto complainant is not the real owner of the property. However, the respondent Police registered the case in a mechanical manner and proceeded with the investigation and also filed a final report. He further submitted that the civil Court decree based on which, the petitioners have purchased the property has not been assailed by the second respondent so far and hence, they are the bonafide purchasers of the property purchased based on the decree of the competent civil Court. It is also submitted that the District Registrar, based on the complaint of the second respondent has cancelled the sale deed registered in favour of the petitioners and as against which, the petitioners filed a petition in WP(MD)No.1110 of 2016 and the same was allowed by this Court by order dated 22.03.2019 with a liberty to the second respondent namely, Rajith Beevi to workout her remedy by approaching the civil Court.

5.Per contra the learned Additional Public Prosecutor appearing for the State would submit that accused Nos.1 to 15, who are no way connected with the properties of the de facto complainant have entered into a sale agreement with these accused Nos.16 and 17 and at the instance of these petitioners / accused Nos.16 and 17, a collusive civil suit was filed and a compromise decree was obtained and with the strength of the compromise decree, the transaction was made in favour of these petitioners / accused Nos.16 and 17. The learned Counsel for the second respondent / complainant has also submitted that the prayer in the civil suit itself is for declare the accused Nos.1 to 15 are the legalheirs of the second respondent and such a prayer itself is not maintainable and moreover, these accused Nos.1 to 15 are in no way connected with the de facto complainant / second respondent. In order to cheat the second respondent / complainant, they have conspired together and created records in such a manner and these grounds raised by the petitioners can be considered only during the course of trial and based on these grounds, the final report cannot be quashed at the threshold.

6.Heard the learned Counsel on either side and also perused the records.

7.The second respondent has lodged a complaint that with regard to her property, a civil suit was filed by accused Nos.1 to 15, who are in no way connected with her and also obtained a fraudulent compromise decree from the civil Court and with the strength of the same, the sale deed was also executed in favour of



these petitioners/ accused Nos.16 and 17. As stated by the learned Counsel for the second respondent, the petitioners have entered into a sale agreement, even before filing of the civil suit and according to the learned Counsel for the second respondent, it is at the instance of these petitioners, the civil suit itself was filed to create some records in their favour to take away the properties of the second respondent/ de facto complainant.

8.Though very many grounds have been raised by the learned Counsel for the petitioners, these grounds can be considered only during the course of the trial and these are not the grounds for considering this case and for quashing the final report filed as against the petitioners and accordingly, this criminal original petition is dismissed with a liberty to the petitioners, to raise all these grounds before the trial Court and consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar

// True Copy //

Sub Assistant Registrar(CS)

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- 1.The Special Judicial Magistrate,
Special Court for Exclusive trial of Land Grabbing Cases,
Madurai.
- 2.The Inspector of Police,
Anti Land Grabbing Special Cell,
Madurai
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to M/s.APN LAW ASSOCIATES, Advocate (SR-103187[F]

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SMA/27/12/19/3P/5C