



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 25.10.2019

CORAM

WEB COPY

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

CRL.O.P(MD)No.6325 of 2017

and

CRL.M.P(MD)No.4235 of 2017

N.Balasubramanian .. Petitioner/Accused No.3

Vs.

1.State Rep. by its Inspector of Police,
Anti Land Grabbing Special Cell PS,
Tiruchirappalli - 1.

2.Rathnasamy .. Respondents

PRAYER : Criminal Original Petition filed under Section 482 of Criminal Procedure Code, to call for the records in Crime No.1 of 2015 on the file of the respondent police and quash the same.

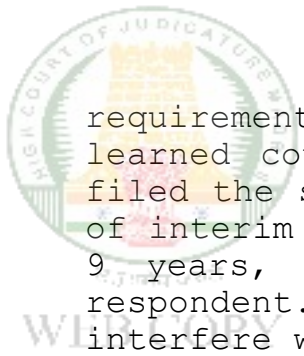
For Petitioner	: Mr.S.Gurumoorthy
For Respondent	: Mr.S.Chandra Sekaran for R1 Additional Public Prosecutor Mr.C.Selvaraj for R2

ORDER

This Criminal Original Petition has been filed seeking to quash the FIR in Crime No.1 of 2015 pending investigation before the first respondent police.

2.It is seen from the records that the defacto complainant claims ownership over the property by virtue of his sale deed, which was executed in the year 1994. The same property has been dealt with by A1 and A2 and they have purchased the same property from one Tmt.Krishnammal in the year 2000. The present petitioner is a subsequent purchaser, who came into the scene only in the year 2005, when he purchased the property from A1 and A2 for a valuable consideration.

3.The learned counsel for the petitioner submitted that the petitioner is a bonafide purchaser, who had purchased the property in the year 2005 by paying a valid sale consideration and the document that has been executed in his favour will not satisfy the



requirements of a false document under Section 464 of IPC. The learned counsel further submitted that the petitioner had already filed the suit in O.S.No.835 of 2006 and has also obtained an order of interim injunction against the second respondent and after nearly 9 years, the present complaint has been given by the second respondent. Therefore, the learned counsel requested this Court to interfere with the FIR insofar as the petitioner is concerned.

4.Per contra, the learned counsel appearing on behalf of the defacto complainant/second respondent submitted that the defacto complainant is the owner of the property by virtue of two sale deeds executed in the year 1994. The learned counsel further submitted that the defacto complainant filed a suit in O.S.No.553 of 2005 and he has also obtained an order of interim injunction as against A1 and A2. While so, the petitioner has fraudulently purchased the property from other accused persons knowing fully well that the second respondent is the owner of the property and the document that has been executed in favour of the petitioner is a false document which satisfied the requirements of Section 464 of IPC.

5.Heard the learned Additional Public Prosecutor appearing on behalf of the respondent police.

6.The only issue that requires consideration in this case is whether the sale deed that was executed in favour of the petitioner on 21.02.2005, will satisfy the requirements of a false document under Section 464 of IPC. It will be relevant to rely upon the judgment of this Court in ***T.Muthuramalingam Vs. Inspector of Police, District Crime Branch, Theni, Theni District and another*** reported in ***(2018) 4 MLJ (Cr1.) 392***, wherein all the earlier judgments of the Honourable Supreme Court were referred. The relevant portions of the judgment is extracted hereunder.

"14.The above said judgment squarely applies to this case. This is also a case which does not obviously fall under the second and third categories of "False documents". Therefore, the only thing which remains to be seen is whether showing false boundaries in the sale deed of the petitioner will amount to committing forgery of the document with an intention to take possession of the second respondent's property. Para 16 of the judgment of the Supreme Court extracted herein above is the direct answer for the said question.

15.Even assuming that the petitioner is dishonestly or fraudulently claiming 80 cents of land belonging to the second respondent, the same will not satisfy the requirement of Section 464 of IPC since further requirement that it should have been made with the intention of causing it to be believed that such document was made or executed by, or by the authority of a person, by whom or by whose authority he knows that it



was not made or executed, is not present in the case. Once Section 464 of IPC is not attracted, automatically, the offence under Section 465, 468 and 471 will not be attracted. Therefore, even on a plain reading of the complaint given by the second respondent, no offence has been made out under Sections, 465, 468 and 471 of IPC."

WEB COPY

7.It is clear from the above judgment that the facts of the present case, insofar as the petitioner is concerned, will not satisfy the requirements of Section 464 of IPC. In other words, the sale deed that has been executed in favour of the petitioner in the year 2005 cannot be termed as a false document, in terms of Section 464 of IPC. If the said offence is not made out, the other offences under Sections 468, 471 and 420 of IPC also will not stand attracted against the petitioner. Therefore, this Court is of the considered view that the continuation of the investigation insofar as the petitioner is concerned is clearly an abuse of process of law.

8.In the result, the FIR in Crime No.1 of 2015 on the file of the first respondent police, is hereby quashed insofar as the petitioner is concerned and accordingly, this Criminal Original Petition is allowed. The respondent police shall proceed further with the investigation insofar as the other accused persons are concerned and complete the investigation within a period of three months and file a final report or a closure report as the case may be before the competent jurisdictional Court. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (AD-II)

// True Copy //

Sub Assistant Registrar(CS)

TM

To

1.The Inspector of Police, Anti Land Grabbing Special Cell PS,
Tiruchirappalli - 1.

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

+1 CC to MR.S.KUMARESAN, Advocate (SR-94798[F] dated 25/10/2019)

CRL.O.P(MD)No.6325 of 2017

25.10.2019

VB(13.11.2019) 3P 4C