

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.11.2020

CORAM:

THE HONOURABLE MR.JUSTICE P.N.PRAKASH

Cr1.O.P.No.11330 of 2015

and M.P.No.1 of 2015

P.Vinoth Kumer Sarogi .. Petitioner/Accused 1

Vs

1.The Inspector of Police, .. Respondent/Complainant
15, Velampalayam Police Station,
Tiruppur City.
(Crime No.305/2014)

2.Sarasu .. Respondent/de facto complainant

(Amended as per order in
Cr1.O.P.No.11330/15 dt.15/07/2020)

Criminal Original Petition filed under Section 482 Cr.P.C.
to call for the records in Crime No.305 of 2014 on the file of
the respondent/police and quash the same.

For Petitioner : Mr.V.Velusamy

For R1 : Mr.L.Charles Premkumar
Government Advocate
(Cr1.Side)

For R2 : Mrs.Nazrin

ORDER

This criminal original petition has been filed seeking to
call for the records in Crime No.305 of 2014 on the file of the
respondent/police and quash the same.

2. On a complaint lodged by the second respondent/de
facto complainant, the first respondent registered a case in
Crime No.305 of 2014 on 17.11.2014 for the offences under
Sections 420, 468, 471 and 506(I) IPC against Vinoth Kumer
Sarogi (A1), Subramani (A2), Kittappan (A3) and Jeyabalan (A4),
for quashing which, Vinoth Kumer Sarogi (A1) has filed the

present petition under Section 482 Cr.P.C.

3. Admittedly, Subramani (A2) and Kittappan (A3) are the brothers of the *de facto* complainant and they are the sons of one Rayappa Gounder. Jeyabalan (A4) is the son of Subramani (A2). Rayappa Gounder inherited the property in Survey No.295/2 measuring 4 acres in Chettipalayam village by Document No.663 of 1960 dated 19.03.1960. Rayappa Gounder sold 1 acre of land to one Sadayappa Gounder on 31.10.1966 by Document No.2533 of 1966. Rayappa Gounder was in enjoyment of the balance 3 acres of land. Rayappa Gounder died on 14.09.1969 leaving behind Ponnammal, Pazhaniammal, Subramani (A2), Kittappan (A3), Chinnappan and the *de facto* complainant.

4. It is the case of the *de facto* complainant that his brothers Subramani (A2), Kittappan (A3) and Chinnappan had illegally sold the property of their father to Vinoth Kumer Sarogi (A1) and hence, the FIR.

5. On 28.09.2020, this Court passed the following order:

"Learned counsel for the petitioner submits that a civil dispute arose between A1 and A3, who are the blood brothers and A4, who is the brother's son of 2nd respondent.

2.The property of Rayappa Gounder was partitioned and settled amongst the male members of Rayappa Gounder. The 2nd respondent and other female family members got married and settled with their respective families and as per the family arrangement, the female family members have no claim on the property of Rayappa Gounder. The 1st petitioner purchased the property after three transactions from the original purchaser who purchased from the legal heirs of Rayappa Gounder. The petitioner is an innocent purchaser and no with ulterior motive, the present complaint has been registered.

3.Earlier, on two occasions, the learned counsel for the 2nd respondent failed to appear before this Court despite information given by petitioner to the second respondent regarding pendency of the case. This Court had adjourned this case for appearance of the 2nd respondent/*de facto* complainant. For one reason or other, absence of 2nd respondent, the case would not be concluded, though the petitioner and Additional Public Prosecutor are ready for arguments.

4.Today, Ms.Nisrine, Enrol.No.1460/2005, who is

the counsel on record appeared before this Court and informed that she is unable to contact her client Sarasu. Though she filed appearance during August 2020 still she is not completely briefed and she is unable to contact her client seeks time to advance her arguments.

Post the matter on 15.10.2020."

6. On a perusal of the FIR, it is seen that the dispute is essentially between the brothers with regard to the sharing of the property in question. As far as the petitioner is concerned, he had purchased the property from the legal heirs of Rayappa gounder and he is the third purchaser of the property.

7. In such view of the matter, the FIR registered against the petitioner is clearly an abuse of process of law.

In the result, this criminal original petition is allowed and the FIR in Crime No.305 of 2014 on the file of the respondent/police is hereby quashed as against Vinoth Kumer Sarogi (A1). Connected M.P. is closed.

-Sd/-

Assistant Registrar (CS)

// True Copy //

Sub Assistant Registrar

nsd

To

1.The Inspector of Police,
15, Velampalayam Police Station,
Tiruppur City.

2.The Public Prosecutor,
Madras High Court,
Chennai - 600 104.

CrI.O.P.No.11330 of 2015
and M.P.No.1 of 2015

SSI (CO)
UMY (17.12.2020)