

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 13.10.2020

PRONOUNCED ON : 28.10.2020

CORAM

THE HONOURABLE MR.JUSTICE P.N.PRAKASH

CRL.O.P.NO.24916 OF 2015

AND CRL.M.P.NO.1 OF 2015

1.Samyathal
2.N.Sakthivel

..Petitioners/Accused 1 & 2

Vs.

N.Ganesh Kumar

..Respondent/Complainant

Prayer:-

Criminal Original Petition filed under Section 482 Cr.P.C., to call for the records related to the complaint in C.C.No.399 of 2013 on the file of the Judicial Magistrate Court, Kangeyam and quash the same.

For Petitioners: Mr.K.Govi Ganesan

For Respondent : Mr.N.Stalin

ORDER

This Criminal Original Petition has been filed to quash the complaint pending in C.C.No.399 of 2013 on the file of the Judicial Magistrate Court, Kangeyam, against the petitioners herein.

2. For the sake of convenience, the parties would be referred to by their names.

3. Samiyathal is the youngest sister of Nallasamy. Ganesh Kumar is the son of Nallasamy. Nallasamy settled 0.71 acres (71 cents) of land in S.No.957 by a settlement deed 03.3.1981, registered as Document No.584/1981 in favour of his sister Samiyathal, out of love and affection. Samiyathal sold her property to Sakthivel by a deed of sale dated 09.10.2012, registered as Document No.3471/2011. That being so, after the death of Nallasamy, his son Ganesh Kumar filed a private

complaint in C.C.No.399/2013 in the Court of Judicial Magistrate, Kangeyam, against Samiyathal and Sakthivel, for the offences under Sections 114, 193, 420, 465, 468, 472, 473, 474, 476 & 423 IPC., for quashing which, Samiyathal and Sakthivel have filed the present petition under Section 482 Cr.P.C.,

4. Heard Mr.K.Govi Ganesan, learned counsel for the petitioners and Mr.N.Stalin, learned counsel for the respondent.

5. On 06.10.2020, this Court passed the following order :

" Heard the learned counsel appearing for the petitioners and the respondent.

2. The counsel for the respondent/complainant is directed to submit the documents showing that he is the owner of the land in Survey No.957/4. Similarly, the counsel for the accused/petitioners is directed to produce the clean copy of the documents viz., Doc.No.584/1981 dated 03.3.1981 and Doc.No.3471/2012 dated 09.10.2012.

4. The counsel on both sides are directed to file the above details in the form of the typed set of papers in the Registry on or before 12.10.2020.

5. Both sides requested that the matter may be heard through Video Conferencing.

Post the matter at 2.30 p.m. On 13.10.2020 through Video Conferencing."

6. Pursuant to the said order, Mr.K.Govi Ganesan, learned counsel filed a typed set of papers dated 12.10.2020, containing a copy of the settlement deed dated 03.3.1981 and the sale deed dated 09.10.2012. Mr.N.Stalin, learned counsel for the respondent also filed a typed set of papers dated 09.10.2020, enclosing a copy of the settlement deed dated 23.06.1983. It is also the submissions of the learned counsels on either side that there are civil suits pending between the parties and one such suit is O.S.No.198 of 2015 on the file of the District Munsif Court, Kangeyam, in respect of the dispute at hand.

7. It is the grievance of Ganesh Kumar, that his aunt Samiyathal had sold 0.71 cents of land belonging to him to Sakthivel, and thereby had committed the offences mentioned in the private complaint.

8. A perusal of the documents filed by both sides show that Nallasamy, the father of Ganesh Kumar had settled 71 cents

of land in S.No.957 in favour of his sister Samiyathal by the settlement deed dated 03.3.1981, whereas Ganesh Kumar is claiming title to the said 71 cents, by the settlement deed dated 23.06.1983, that was executed by his grandfather in his favour. It is clear the Samiyathal's document is prior to Ganesh Kumar's document and if Ganesh Kumar is aggrieved by Samiyathal's title to the property, the remedy available to him is to approach the civil Court for declaring the settlement deed dated 03.03.1981 and the sale deed dated 09.10.2012, as null and void, within the period of limitation. Therefore, the present criminal prosecution is misconceived, and deserves to be quashed.

9. In fine, this petition is allowed and the prosecution in C.C.No.399 of 2013 on the file of Judicial Magistrate Court, Kankeyam, is hereby quashed. Connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

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To:

The Judicial Magistrate
Kangeyam.

+lcc to Mr.K.Govi Ganesan, Advocate, S.R.No.35099

Crl.O.P.No.24916 of 2015

SRA(CO)
CS/09/12/2020

सत्यमेव जयते

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