

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.09.2020

CORAM:

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

CRL.O.P.Nos. 5046, 5553 & 6717 of 2020
and Crl.M.P.Nos.2869, 3130 & 3702 of 2020

1. G.Ravichandran
S/o.Govindasamy.
2. S.Christy
S/o.Susainathan.

...Petitioners in
Crl.O.P No.5046 of 202

1. Annaiyappa
S/o.Late Ramaiah
2. Nagaraj
S/o.Late Ramaiah
3. Manjunath
S/o.Late Ramaiah.
4. Kembamma
W/o.Chandrappa
5. Chitra
W/o.Late S.Venkatesh
6. Lakshmiamma
W/o.Muni Nanjappa
7. Prema
W/o.S.Manjunath
8. Chanandirika
W/o.Revanna.
9. Dhanalakshmi
W/o.Nagaraj

...Petitioners in
Crl.O.P.No.5553 of 2020

V.M.Praveen Kumar
S/o.V.Muniraj

सत्यमेव जयते

...Petitioner in
Crl.O.P.No.6717 of 2020

Vs.

1. The State rep by
The Inspector of Police,
District Crime Branch,
Krishnagiri.
(Crime No.02/2020)
2. Rani
W/o.Chinnasamy

... Respondents in all
Crl.O.Ps.

COMMON PRAYER: Criminal Original Petitions filed under Section 482 of Cr.P.C. praying to call for the records relating to the

impugned FIR in Crime No.02 of 2020 on the file of the first respondent police and quash the same insofar as the petitioners are concerned.

For Petitioners

in Crl.O.P.5046 of 2020 : Mr.K.Govi Ganesan

in Crl.O.P.5553 of 2020 : Mr.R.Bharath Kumar

in Crl.O.P.6717 of 202 : Mr.T.Vedi

For Respondents in all Crl.O.Ps.

For R1 : Mr.S.Karthikeyan

Additional Public Prosecutor.

For R2 : Mr.N.Manoharan

COMMON ORDER

These petitions have been filed to quash the FIR in Crime No.02 of 2020 on the file of the first respondent police registered for the offences under Sections 166, 166A, 420, 467, 468, 471, 294(b), 447, 341, 506(2) of IPC and 82(d) of Registration Act, 1908, as against the petitioners.

2. The learned counsel appearing for the petitioners in Crl.O.P. No.5553 of 2020 submitted that the petitioners are arrayed as A1 to A8 and A10 in Crime No.2 of 2020, registered on the complaint lodged by the second respondent for the offences under Sections 166, 166A, 420, 467, 468, 471, 294(b), 447, 341, 506(2) of IPC and 82(d) of Registration Act, 1908. The entire allegations are civil in nature and there are civil suits and revenue proceedings are pending between the petitioners and the second respondent herein in respect of the disputed property. Therefore there is absolutely no allegations to attract the offences as against the petitioners.

2.1. He further submitted that one Kempammal was the original owner of the land ad measuring 12.72 acres comprised in Survey Nos.503, 504 and 505 situated at Zuzuwadi village, Hosur Taluk, Krishnagiri District. She had one daughter viz., Chikamma and she was married to one Ramaiya. They had two sons namely Goopaliappa and Nanjappa. The said Kempammal executed settlement deed dated 18.02.1959 registered as Document No.541 of 1959 in the office of the Sub Registrar, Hosur, thereby settling the undivided half share on the southern side of 4.30 acre in survey No.503, half undivided share on southern side of 2.24 acres in survey No.505 and 1/4 undivided share on the southern side of 6.18 acres in survey No.504 in favour of her grandson Nanjappa. The balance extend of 7.92 acres was allotted to the share of Goopaliappa. Thereafter both the grandsons viz., Nanjappa and Goopaliappa had been in possession and enjoyment of their respective share.

2.2. He further submitted that the said Nanjappa had two wives and the first wife had one daughter viz., Ramakka and the second wife Biyamma had one son viz., Ramaiya. Another brother Goopaliappa had four sons and one daughter. The said Goopaliappa executed settlement on 10.04.1981 vide registered as document No.1383 of 1981 at the office of Sub Registrar, Hosur thereby settling 2.80 acres ie., 1.12 acres in Survey No.505 and 1.68 acres in Survey No.503 in favour of the petitioners' mother Beeramma. Accordingly, the revenue records were also mutated and the petitioners' mother was in possession and enjoyment of the land ad measuring 2.80 acres. A join patta was also issued in their favour and they also constructed a house and assessed to the property tax. While being so, the second respondent obtained patta by furnishing false information to the Revenue Department and the same was challenged before this Court in W.P.No.39928 of 2015 for cancellation of patta issued in favour of the second respondent. This Court by an order dated 18.12.2015 disposed of the said writ petition by directing the revenue authority to conduct enquiry and pass orders. Thereafter, the District Revenue Officer had conducted enquiry and passed an Order dated 01.07.2016, thereby cancelled the patta issued in favour of the second respondent and directed to include the petitioners' mother name in the revenue records. Aggrieved by the same, the second respondent filed a writ petition in W.P.No.26436 of 2016 and it is pending.

2.3. He further submitted that the case of the defacto complainant/second respondent is that she purchased the property ad measuring 4.82 acres and claimed title on the strength of the judgment and decree in O.S.No.116 of 1977 on the file of the District Munsif, Hosur, which was confirmed in A.S.No.33 of 1980 and S.A.No.1370 of 2001. The said suit was filed as against the grandfather of the petitioners viz., Goopaliappa for declaration and injunction by one Ramaiya and her mother Biyamma, and the same was decreed in their favour. Aggrieved by the same, the petitioners' grandfather filed an appeal suit in A.S.No.33 of 1980 on the file of the Subordinate Court, Krishnagiri, and the first appellate Court held that the first plaintiff viz., Biyamma is not a legally wedded wife of late Nanjappa and the suit is not maintainable as against her and the second plaintiff viz., his son Ramaiya is entitled to get half undivided share in the suit property. On the basis of the said judgment and decree in favour of the said Ramaiya, one of the vendors of the defacto complainant filed a suit in O.S.No.373 of 1981 on the file of the District Munsif Court, Hosur, for division of half undivided share by meets and bounds, as against the petitioner's grandfather and his two sons. The said suit was decreed by the judgment and decree dated 08.08.1994. Aggrieved by the same, the petitioners' grandfather filed an appeal suit in A.S.No.36 of

1996 on the file of the subordinate Court, Hosur and the same was dismissed by a judgment and decree dated 18.06.2001 as against which the petitioners' mother filed a second appeal before this Court in S.A.No.1370 of 2001 and the same was also dismissed by the judgment and decree dated 04.09.2008. Pursuant to the said decree of partition of half undivided share out of 4.82 acres, the said Ramaiya did not file any application for passing a final decree. Therefore, the petitioners' mother was in continuous and uninterrupted possession of the lands to an extent of 2.80 acres. Therefore, the sale deed executed in favour of the second respondent without mentioning any boundaries in the schedule of property is not at all valid and non mentioning of the boundaries would create serious doubt about the ownership of the property.

2.4. He further submitted that the petitioners' mother Beeramma died on 04.07.2017 leaving behind her legal heirs viz., the petitioners 1 to 8 in Crl.O.P.No.5553 of 2020. Thereafter the petitioners have been in peaceful possession and enjoyment in the disputed property. They executed settlement deed dated 13.10.2019 registered as document No.19407 of 2019 with the office of Sub Registrar, Hosur, in favour of the second petitioner in Crl.O.P.No.5553 of 2020. Even then, the second respondent now lodged complaint with false averment that without any title over the property the petitioners filed petition for cancellation of patta and the same was considered by the accused 11 and 12 effected the transfer of patta and issue patta in their favour. Therefore no offence is made out as against the petitioners as alleged by the second respondent and hence he sought for quashment of the FIR.

3. The learned counsel appearing for the petitioners in Crl.O.P. No.5046 of 2020 submitted that the petitioners are arrayed as A11 and A12. He further submitted that the petitioners are quasi judicial authorities and passed orders after conducting due enquiry. Therefore, they are nothing to do with the allegations as alleged by the second respondent. He further submitted that all the allegations as against the petitioners are bald and vague and there is no specific allegations as against the petitioners herein. Further, the order passed by the second petitioner is now under challenge before this Court in W.P.No.26436 of 2016 and it is pending. The allegations as against the petitioners are that they received several lakhs for changing patta in the name of the petitioners in Crl.O.P.No.5553 of 2020. Except those bald and vague allegations, no other allegation is made as against the petitioners to attract the offences. After conducting due enquiry and after recording the statement from all the parties concerned including the second respondent herein, the second petitioner passed the order thereby cancelling the patta issued

in others name and directed to issue patta in favour of the petitioners' mother in Crl.O.P.No.5553 of 2020. In fact the said order is challenged before this Court in W.P.No.26436 of 2016 and it is stayed by an order dated 28.07.2016 and the writ petition is pending. Therefore, the petitioners are being the officials, they are nothing to do with the crime as alleged by the second respondent herein. Therefore, he prayed to quash the FIR as against the petitioners.

4. The learned counsel appearing for the petitioner in Crl.O.P.No.6717 of 2020 submitted that the petitioner is arrayed as A9. He further submitted that the mother of the accused viz., Beeramma executed a deed of General Power of Attorney by appointing the petitioner as her power agent and the same was registered as document No.10703 of 2016 on the file of the Sub Registrar Office, Hosur. After the death of the said Beeramma, another power of attorney deed was executed by Annaiappa and others and the same was registered in document No.1207 of 2018 to deal with the disputed property. After execution of power of attorney, the petitioner never executed any document and therefore mere execution of power of attorney would not amount to transfer of property as alleged by the prosecution. Further the petitioner absolutely had no knowledge about the civil dispute between the petitioners in Crl.O.P.5553 of 2020 and the second respondent herein. Therefore, he prayed for quashment of entire proceedings.

5. Per contra, the learned counsel appearing for the second respondent submitted that the land measuring an extent of 1.82 Hectare comprised in survey Nos.503/1, 503/9, 504/2 and 505/2 situated at Chinna Elasagiri Village, Hosur Taluk, Krishnagiri District originally belonged to Ramiah and Ramakka, legal heirs of one Nanjappa. The second respondent purchased the said land by a sale deed dated 12.08.2009, vide document No.5430 of 2009 at the Sub Registrar Office, Hosur. After purchase, the revenue records have also been mutated in her favour and she is in possession of the said land after remitting necessary taxes. The said land is the subject matter of the suit in O.S.No.116 of 1978 on the file of the District Munsif Court, Hosur and having knowledge of the above judgments, one Goopaliappa viz., grandfather of the petitioners 1 to 8 in Crl.O.P.No.5553 of 2020, executed partition deed vide document No.6220 of 1980. Suppressing the purchase made by the second respondent, one Beeramma, daughter-in-law of the said Goopaliappal, viz., the mother of the petitioners 1 to 8 in Crl.O.P.No.5553 of 2020, applied transfer of patta and the petitioners in Crl.O.P.No.5046 of 2020 being the Tahsildar and the District Revenue officer by misusing their power and also obtaining money illegally had cancelled the patta issued in favour of the second respondent by an order dated 01.07.2016. The said order was challenged by the

second respondent before this Court in W.P.No.26436 of 2016 and the same is pending. He further submitted that the said Beeramma died and her legal heirs i.e., the petitioners 1 to 8 in CrI.O.P.No.5553 of 2020, fabricated the power of attorney in connivance with each other and executed a settlement deed dated 13.10.2019, registered as document No.19406 of 2019 relating the disputed property and prevented the second respondent from entering into the land and threatened her with dire consequence.

5.1. He further submitted that it is a FIR and it cannot be quashed on its threshold and it would amount to killing of born child. There are very serious allegations as against the petitioners in all the petitions and it has to be investigated in depth to find out the truth. He further submitted that the arguments made by the learned counsels appearing for the petitioners cannot be considered before this Court that too under Section 482 of Cr.P.C. As against all the accused persons, there are specific allegations to attract the offences under Sections 166, 166A, 420, 467, 468, 471, 294(b), 447, 341, 506(2) of IPC and 82(d) of Registration Act, 1908 and as such he sought for dismissal of all the petitions.

6. The learned Additional Public Prosecutor appearing for the first respondent submitted that the second respondent purchased the land ad measuring an extent of 1.82 Hectare comprised in survey Nos.503/1, 503/9, 504/2 and 505/2 situated at Chinna Elasagiri Village, Hosur Taluk, Krishnagiri District by a sale deed dated 12.08.2009, vide document No.5430 of 2009 at the Sub Registrar Office, Hosur. It is alleged that suppressing the purchase made by the second respondent, one Beeramma, viz., the mother of the petitioners 1 to 8 in CrI.O.P.No.5553 of 2020, applied transfer of patta and the petitioners in CrI.O.P.No.5046 of 2020 being the Tahsildar and the District Revenue officer by misusing their power and also obtaining money illegally had cancelled the patta issued in favour of the second respondent by an order dated 01.07.2016. He further submitted that the said Beeramma died and her legal heirs i.e., the petitioners 1 to 8 in CrI.O.P.No.5553 of 2020, fabricated the power of attorney in connivance with each other and executed a settlement deed dated 13.10.2019 registered as document No.19406 of 2019 relating the disputed property and prevented the second respondent from entering into the land and threatened her with dire consequence. He further submitted that the investigation is still pending and therefore he prayed for dismissal of this petition.

7. Heard Mr.K.Govi Ganesan, learned counsel appearing for the petitioners in CrI.O.P.No.5046 of 2020, Mr.R.Bharath Kumar, learned counsel appearing for the petitioners in CrI.O.P.No.5553 of 2020, Mr.T.Vedi, learned counsel appearing for the petitioner

in CrI.O.P.No.6717 of 2020 Mr.N.Manoharan, learned counsel appearing for the second respondent in all petitions and Mr.S.Karthikeyan, learned Additional Public Prosecutor appearing for the first respondent in all petitions.

8. There are totally 13 accused in which the petitioners are arrayed as A1 to A12. Originally, the disputed property owned by one Kempammal and she had one daughter by named Chikamma. She got married with one Ramiya and had two sons. During her life time, the said Kempammal executed a settlement deed in favour of her two grandsons viz., Nanjappa and Goopaliappa, born through her daughter. The said Nanjappa had two wives viz., Sampammal and Biyamma. The first wife had one daughter viz., Ramakka and the second wife had one son viz., Ramaiya. Similarly another brother Goopaliappa had four sons and one daughter. The petitioners are the heirs under Goopaliappa. The said Goopaliappa executed a settlement deed dated 10.04.1981, registered as document No.1383 of 1981 in the office of the Sub Registrar, Hosur, thereby settling the disputed property in favour of his daughter-in-law Beeramma i.e., mother of the petitioners in CrI.O.P.No.5553 of 2020. Accordingly, the revenue records were also mutated and they are in possession and enjoyment of the property. A joint patta No.752 dated 20.01.1985 was also issued in favour of them for the said property. Thereafter they also built up their respective houses and also assessed house tax.

9. On the other hand, the second respondent purchased the land to an extent of 4.82 acres, on the strength of the judgment passed in O.S.No.116 of 1977 on the file of the District Musnif, Hosur. The second wife of the said Nanjappa viz., Biyamma and her son Ramaiya filed the said suit against the grandfather of the petitioners in CrI.O.P.No.5553 of 2020 ie., brother of Nanjappa viz., Goopaliappa for declaration of title and injunction in respect of 4.82 acres comprised in survey Nos.503, 504 and 505. The said suit was decreed by the judgment and decree dated 20.08.1978. Aggrieved by the same, the petitioners' grandfather and his sons filed an appeal suit in A.S.No.33 of 1980 on the file of the Subordinate Court, Krishnagiri. The first appellate Court held that the first plaintiff viz., Biyamma is not a legally wedded wife of late Nanjappa and the suit is not maintainable as against her and the second plaintiff viz., her son is entitled to get half of the share in the suit property. On the strength of the above judgment, one of the vendors of the second respondent filed a suit for partition in O.S.No.373 of 1981 on the file of the learned Subordinate Court, Krishnagiri, claiming half share. The said suit was decreed in their favour. Aggrieved by the same, the said Goopaliappa file an appeal in A.S.No.36 of 1996 on the file of the Subordinate Court, Hosur and the same was dismissed against which, filed

second appeal in S.A.No.1370 of 2001 and the same was also dismissed by this Court by the judgment and decree dated 04.09.2008. Even then, the plaintiffs viz., the vendors of the second respondent did not file any application for final decree to divide the property by meets and bounds. Therefore without any division of the suit property, the plaintiffs have been sold out the suit property in favour of the second respondent herein.

10. It is also seen that the second respondent claimed title that her vendors obtained the land situated on the southern side by the settlement deed dated 18.02.1959. But the disputed land situated on the north side. Thereafter, one Beeramma i.e., the mother of the petitioners in Crl.O.P.No.5553 of 2020 filed application for cancelling the patta and consequently issue patta in her name. The 12th accused who was working as District Revenue officer, Krishnagiri District, had conducted enquiry and after recording the statement of all parties and also upon receipt of the recommendation from the 11th accused viz., the Tashildar, by an order dated 01.07.2016, concluded that the disputed property is in possession and enjoyment of the said Beeramma and on perusal of the report from the revenue authorities, the land situated on the north side was purchased by the said Beeramma vide document No.541 of 1959 and document No.1383 of 1981. Therefore, the patta issued in favour of the second respondent was cancelled and directed to issue patta in favour of Beeramma. The said order was challenged by the second respondent by way of W.P.22645 of 2016, and this Court by an order dated 28.07.2016 granted interim stay thereby stayed all further proceeding of the order dated 01.07.2016 passed by the 12th accused. Thereafter, the said Beeramma died on 04.07.2017 leaving behind the petitioners in Crl.O.P.No.5553 of 2020 as her legal heirs. They also executed a settlement deed dated 13.10.2019 in favour of the second petitioner in Crl.O.P.No.5553 of 2020 on the strength of the order passed by the 12th accused. Therefore only on the strength of the order passed by the District Revenue Officer, Krishnagiri, the settlement deed executed in favour of the second petitioner and the said order is under challenge before this Court.

11. Further on perusal of the judgment and decree passed in various civil proceedings and also the proceeding of the revenue official, there is a dispute between the legal heirs of both brothers viz., Nanjappa and Goopaliappa. All the allegations are civil in nature and no offence is made out from the above said allegations as against the petitioners in all the petitions. Therefore, the present FIR is nothing but clear abuse of process of law and it cannot be sustained as against the petitioners.

12. Accordingly, all the Criminal Original Petitions are allowed and FIR in Crime No.02 of 2020 on the file of the first respondent police, is hereby quashed. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

1. The Inspector of Police,
District Crime Branch,
Krishnagiri.
2. The Public Prosecutor
Madras High Court,
Chennai.

+1cc to M/s.N.Manokaran, Advocate in SR.NO..31035
+1cc to M/s.K.Govi Ganesan, Advocate in SR.NO..31010
+1cc to M/s.T.Vedi, Advocate in SR.NO..30948
+1cc to M/s.R.Bharath Kumar, Advocate in SR.NO..30947

CRL.O.P.Nos. 5046, 5553 & 6717 of 2020
and Crl.M.P.Nos.2869, 3130 & 3702 of 2020

AD(CO)
RV(15/10/2020)

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