

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.10.2020

CORAM:

THE HONOURABLE Mr.JUSTICE P.N.PRAKASH

Crl.O.P.No.10930 of 2017
and Crl.M.P.No.7212 of 2017

Viswanathan

..Petitioner/
proposed 3rd accused

Vs.

1.The Inspector of Police,
District Crime Branch,
Villupuram.

..Respondent/
Complainant

2.Janarthanan

..Respondent/
defacto complainant

Criminal Original Petition filed under Section 482 Cr.P.C.
to call for the records in Crime No.38 of 2016 on the file of
the 1st respondent police and quash the same.

For Petitioner : Mr.N.Suresh

For R1 : Mr.L.Charles Premkumar

Government Advocate (Crl.Side)

For R2 : Mr.S.William

O R D E R

This criminal original petition has been filed seeking to
call for the records in Crime No.38 of 2016 on the file of the
1st respondent police and quash the same.

2. On a complaint lodged by Janarthanan, the police
registered a case in Crime No.38 of 2016 on 21.12.2016 for the
offences under Sections 423, 467, 468 IPC and Section 82(d) of
the Registration Act, 1908, against Venogopal, Kasinathan and
Viswanathan, for quashing which, Viswanathan has filed the
present petition under Section 482 Cr.P.C.

3. Heard Mr.N.Suresh, learned counsel for the petitioner
and Mr.L.Charles Premkumar, learned Government Advocate
(Crl.Side) appearing for the first respondent/State. Notice was
served on Janarthanan, second respondent/de facto complainant
and he has entered appearance through Mr.S.William and Mr.Philip
Ravindran Jesudoss, Advocates.

4. It is the case of Janarthanan that his grandfather Puthira Gounder had three sons viz., Kothandapani, Ramasamy and Selvaraj; all the three had passed away; during their lifetime itself, they had partitioned their shares orally and each was enjoying his share; after their death, it is alleged that the sons of Kothandapani viz., Venugopal, Kasinathan and Viswanathan had entered into a partition deed dated 22.09.2006, partitioning all the properties, including the property of Janarthanan amongst themselves and thereby, they have committed the alleged offences.

5. Admittedly, a civil case in O.S.No.148 of 2016 is pending between Venugopal and Janarthanan before the Subordinate Court, Tindivanam, in respect of the properties in question.

6. The grievance of Janarthanan is that his cousin brothers had effected a partition deed, in which, they have included his property also. However, it is not his case that he had derived title over the property either by a deed of partition or deed of settlement, but, on account of an oral partition amongst his father and paternal uncles. If Janarthanan is aggrieved with the deed of partition dated 22.09.2006 and its validity, the same cannot be tested by the police, but, only by a Civil Court. Therefore, the registration of the FIR is an abuse of process of law.

In the result, this criminal original petition is allowed and the FIR in Crime No.38 of 2016 on the file of the 1st respondent police is quashed. Connected Crl.M.P. is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

nsd

To

1.The Inspector of Police,
District Crime Branch,
Villupuram.

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

Crl.O.P.No.10930 of 2017

NRL (CO)

RMP (23/11/2020)