

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.07.2020

CORAM

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

Crl.O.P.No.4423 of 2017 and
Crl.M.P.No.3306 of 2017

Jolly Sarkar

...Petitioner/Defacto
Complainant

Vs.

1. Smt.Pushpa

2. Officer In-Charge,
Kottakuppam Police Station.

3. The Inspector of Police,
Anti-Land Grabbing Crime Cell,
Villupuram District,
Villupuram.

4. The Superintendent of Police,
Anti-Land Grabbing Crime Cell,
Villupuram District.

... Respondents

PRAYER: Criminal Original Petition is filed under Section 482 of the Code of Criminal Procedure, to call for the records of FIR No.32/2013 dated 22.08.2013 under Sections 420, 423, 447, 464, 467, 468, 471, 294(b), 506(i) read with 120(b) IPC, registered at 3rd respondent office/The Inspector of Police, Anti-Land Grabbing Crime Cell, Villupuram, Villupuram District and consequential proceedings arising there from and to quash the same.

For Petitioner : Mrs.Usha Ramman

For R2 to R4 : Mr.C.Iyyappa Raj,
Additional Public Prosecutor

ORDER

This Criminal Original Petition has been filed to quash the FIR in Crime No.32 of 2013, on the file of the 3rd respondent Police.

2.The petitioner is the defacto complainant. The 1st respondent/A1 and one Rajamani/A2 are husband and wife. In this case, A2, Rajamani died on 28.12.2014. The case of the

prosecution is that on 30.06.1992, the petitioner and her husband jointly purchased housing plot in old No.23/1, R.S.No.99, Old patta No.1201, New patta No.1016 in Kottakuppam Town Panchayat in plot No.285 from one Lakshmi Narayanan, through Power of Attorney of Divan Kandappa of Puducherry and the sale deed has been registered in Sub Registrar Office, Vanur, bearing document No.1420 of 1992. Similarly in the same survey number, the sister of the petitioner Rama Banergee and her husband Gauranganath Banarjee jointly purchased plot Nos.286 & 287 in document No.2609 of 1991 and Pradeep Chandra Mohanty has purchased in the same survey plot Nos.288 & 289, which have been registered in Sub Register Officer, Vanur. In the meanwhile, the 1st respondent/A1 and his husband/A2, residing at No.2, Devan Kandapa Nagar, Periya Mudaliar Chavady, Kottakuppam Vanur have put up hut and compound wall in the land of the petitioner on 26.06.2008 and created a forged documents stating that they had purchased the property of the petitioner and her sister and also created a settlement deed in favour of Rajamani/A2, which has been registered as document No.3830/2008 in Sub Registered Office, Vanur on 21.08.2013.

3. Thereafter, the petitioner along with her husband had gone to the 1st respondent's house to enquire about putting up hut and compound wall. At that time, the 1st respondent and her husband/A1 used abusive words and threatened them to do away. Hence, the petitioner has lodged the above complaint to the 3rd respondent. On receipt of the same, the 3rd respondent registered a case in Crime No.32 of 2013 on 28.08.2015, for offence under Sections 420, 423, 447, 464, 467, 468, 471, 294 (b), 506(i) read with 120(b) IPC.

4. The learned counsel for the petitioner submitted that the 1st respondent's husband Rajamani/A2 died on 28.12.2014. The 1st respondent, after the death of her husband Rajamani, approached the petitioner and admitted that she falsely claimed the property and willing to execute settlement deed by cancelling the earlier encumbrance and to set right the records and not to claim any right over the property of the petitioner. He further submitted that the 1st respondent expressed that she aware not aware of the claim made by her husband, Rajamani and she has been made as scape goat. Now, she is willing to cancel encumbrance by executing requisite documents before the Sub Registrar Office, Vanur.

5. The learned counsel for the petitioner further submitted that the petitioner had earlier filed CrI.O.P.No.20670 of 2016 for similar prayer. This Court by order dated 15.09.2016 recording the submission of the learned Additional Public Prosecutor that the investigation has been completed in Crime No.32 of 2013 and charge sheet has been filed before the Special

Magistrate, Anti-Land Grabbing Crime Cell, Villupuram, dismissed the petition, directing the Special Magistrate, Anti-Land Grabbing Crime Cell, Villupuram to transfer the final report and documents in Crime No.32 of 2013 to the file of the Judicial Magistrate Court, Vanur. The petitioner, thereafter, filed a copy application in C.A.No.32 of 2016 before the Special Magistrate, Anti-Land Grabbing Crime Cell, Villupuram, seeking copy of the charge sheet in Crime No.32 of 2013 and the same was returned with an endorsement "charge sheet has not been filed". Hence, the submission of the learned Additional Public Prosecutor before this Court in CrI.O.P.No.20670 of 2016, is factually incorrect.

6.Further, the petitioner had produced the copy of Memorandum of Compromise entered between the petitioner, her relatives and the 1st respondent dated 05.08.2016. From the Memorandum of Compromise, it is seen that the 1st respondent's husband Rajamani is no more. Further the settlement deed vide document No.3836 of 2008, by which encumbrance has been created without the knowledge of the 1st respondent. Now, the 1st respondent is willing to cancel the settlement deed and execute necessary document before the Special Magistrate, Anti-Land Grabbing Crime Cell, Villupuram, to clear the encumbrance. The petitioner undertakes to file the compromise deed before the 3rd respondent Police, if need arises she will also file before the learned Judicial Magistrate, Vanur about the settlement and not inclined to proceed in Crime No.32 of 2013.

7.In view of the compromise entered between the petitioner and the 1st respondent and subsequent development, the petitioner seeks quashing of FIR. In support of his contention, the learned counsel for the petitioner relied upon the following decisions:-

- Srivant More Versus Ashwini Kumar reported in 2007(3) Crime 106 (SC).
- B.S.Joshi and others Versus State of Haryana and another reported in (2003) 4 SCC 675.
- Jagadish Chanana and others Versus State of Hararyana and another reported in Criminal Appeal No.596 2008 (arising out of S.L.P.(CrI) No.5194/2006).
- Jayarajsingh Digvijaysingh Rana Versus State of Gujarat and another reported in (2012) 12 SCC 401.
- Madan Mohan Abbot Versus State of Punjab reported in (2008) 4 SCC 582.

8.The learned Additional Public Prosecutor appearing for the respondents 2 to 4 submitted that during investigation, a compromise had been arrived between the petitioner and the 1st respondent. The 1st respondent, in pursuant to the compromise,

agreed to cancel the settlement deed and execute necessary document, to clear the encumbrance created in the properties of the petitioner and her relatives. Now, the petitioner is not willing to pursue the case in Crime No.32 of 2013. In view of the compromise, the continuation of the investigation would be exercise in futility and the 3rd respondent Police have no objection for quashing the above case.

9.Considering the rival submissions and on perusal of the materials, it is seen that the settlement has been arrived between the petitioner and the 1st respondent and filed a Memorandum of Compromise dated 05.08.2016, to that effect. The 1st respondent is ready to cancel the settlement deed and also clear the encumbrance created to the property of the petitioner and her relatives by executing necessary documents. Pursuant to the same, the petitioner has no inclination to proceed with the investigation in Crime No.32 of 2013 and in view of the subsequent development of compromise entered between them.

10.Under such circumstances, no useful purpose will be served in keeping the First Information Report pending, even though, the offences involved are not compoundable in nature.

11.In view of the guidelines given in the case of "Gian Singh Versus State of Punjab & Another reported in, (2012) 10 SCC 303", the dispute in this case is purely between individuals, there is no impediment and this case falls under one of the above guideline. Hence, the FIR in Crime No.27 of 2014, pending on the file of the 1st respondent, is hereby, quashed. The petitioner is, accordingly, allowed. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar

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Sub Assistant Registrar

To

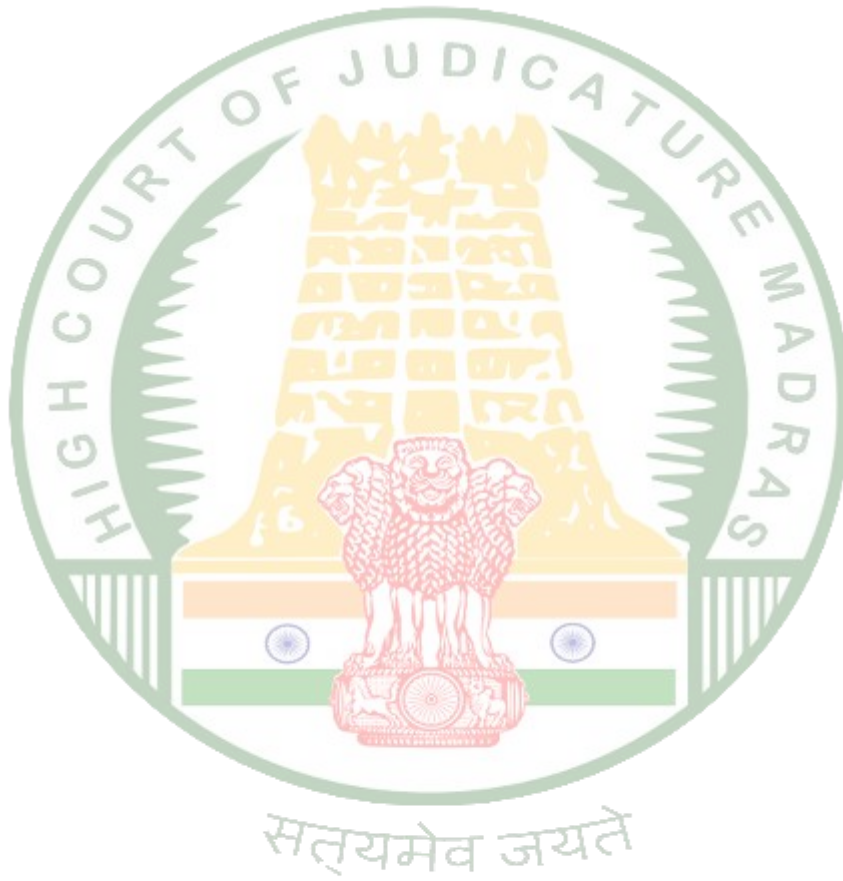
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5. The Public Prosecutor,
High Court, Madras.

Crl.O.P.No.4423 of 2017

SR(CO)
RV(21/10/2020)



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