

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 17.12.2020

PRONOUNCED ON : 23.12.2020

CORAM

THE HONOURABLE MR. JUSTICE G.CHANDRASEKHARAN

Crl. R.C.No.1397 of 2017

G.Madhava Mani

.. Petitioner

Vs.

1.G.Selvam @ Mudiarasan
2.J.Sivakumar
3.S.Sundaresan
4.P.Balaji

... Respondents

Prayer: This Criminal Revision petition is filed to call for the records and set aside the order made in Crl.MP.No.2417 of 2017 passed by the learned Judicial Magistrate Court No.1, Attur, Salem and directing the learned Judicial Magistrate Court No.1, Attur, Salem to take the complaint on file and deal with respondents in accordance with law.

For Petitioner : M/s.A.Nagarathinam
: Mr.G.Pugazhenthii,
For R-1 : Mr. S.Kaithamalai Kumaran
For R-2 : Unserved
R-3 : Died
For R4 : Notice served

O R D E R

This Criminal Revision Petition No.1397 of 2017 is filed against the order passed in Crl.MP.No.2417 of 2017 on the file of Judicial Magistrate No.I, Attur.

2. It is seen that the petitioner as a complainant filed a complaint under Section 156(3) read with Section 200 of Cr.P.C claiming that he is an Agriculturist and having agricultural lands in Umaiyalpuram, Pethanayakkampalayam, in Survey Nos.204/1B, 204/4, 204/6B. He purchased these lands through the Register Sale Deed on 31.09.1990. Necessary mutation had taken place in the Revenue records and he was issued Patta No.656 in respect of this property. The first respondent had no right title or interest in these properties. However, he managed to include his name as a Joint Pattadadar in Patta

no.656 with the connivance of second and third respondents. The second respondent acted in a treachery manner at the instigation and undue influence of the first respondent and made the 3rd accused pass the patta transfer orders on 5.10.2016. He included the name of the first respondent in patta no.656. That order was passed by the fourth respondent without following the procedures established by law, issuing notice to the petitioner and conducting proper enquiry. The petitioner was not aware of these developments. When the first respondent started to give pin-pricks and troubles to the petitioner, he came to know about the patta transfer order. He filed a suit for the reliefs of manadory and permanent injunction against the respondent in OS.No.24 of 2017. Subsequently, the first respondent filed a petition dated 25.06.2017 to delete his name in patta no.656 and the fourth respondent passed orders of deleting the name of the first respondent in patta no.656 and issued the three separate pattas under patta nos.8000, 8002 and 8003 for the aforesaid survey numbers. This act of the respondents amount to cheating and defrauding the petitioner and punishable under Sections 420, 120(b), 474, 465, 467 of IPC. However, the learned Judicial Magistrate found that the corrections made out with regard to patta transfer ought to be decided only by the Competent Civil Court and therefore dismissed the Criminal complaint. Against the said order, the petitioner has preferred this Criminal Revision Petiiton.

3. The learned counsel for the petitioner submitted that the dismissal of the complaint at the initial stage itself is illegal and liable to be set aside. There was criminal conspiracy among the respondents with an intention to cheat the petitioner by effecting illegal change in the patta stood in the name of the petitioner. However, the learned Judicial Magistrate, dismissed the complaint without summoning the respondent.

4. The learned counsel for the respondents supported the order of learned Judicial Magistrate stating that the issue involved in this case is of civil in nature and therefore the dismissal is proper.

5. Point for consideration in this petition is whether the dismissal of the complaint under Section 203 of Criminal Procedure Code is correct or not?

6. Even as per the allegations made in the petition, it is clear that the dispute with regard to the change made in the patta no.656 stood in the name of the petitioner in respect of its property in survey nos. 201, 204/1B, 204/4, 204/6B in Umaiyalpuram, Pethanayakkampalayam.

7. The respondents 2 to 4 are the Government Officials. It is not known under what circumstances, that patta in the name of the petitioner was changed as joint patta in the name of the

petitioner and the first respondent. Admittedly, the petitioner has filed a suit in OS.No.24 of 2017 on the file of District Munsif Court, Attur seeking the relief of mandatory and permanent injunction against the respondents. It is also clear that the petitioner had been issued individual patta for three survey numbers. It is not clear as to whether the change in the patta and subsequent issuance of the separate patta is by oversight or design. Except the change in the patta, no other illegal act of commission or omission is reported. In the suit filed by the petitioner, the issue of title in respect of property is involved. This issue is of civil nature and has to be determined by the competent Civil Court. Without a definite finding by the Civil Court on the aspect of alleged cheating, it could not be ascertained as to whether the respondent conspired together to cheat the petitioner and effected the changes in the patta. The Criminal case was filed at a pre-mature stage and therefore it was rightly dismissed.

8. It is therefore concluded that the dismissal of the complaint in CrI.MP.No.2417 of 2017 is correct and hereby confirmed. This Criminal Revision Petition is dismissed subject to legal remedy available to the petitioner to prosecute the respondents after the conclusion of the Trial in OS.No.24 of 2017.

9. In the result, this Criminal Revision Petition is dismissed.

Sd/-

Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

DRL

To

1. The Judicial Magistrate No.1,
Attur, Salem.

+1cc to Mr.S.Kaithamalai Kumaran, Advocate, S.R.No.42926

Pre-delivery judgment made in

CrI. R.C.No.1397 of 2017

ln(CO)

rv(05/02/2021)

WEB COPY