

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 28.11.2019

PRONOUNCED ON : **02.01.2020**

CORAM:

THE HONOURABLE **MR.JUSTICE M.S.RAMESH**

Crl.O.P.Nos.17218 and 17251 of 2017
and
Crl.M.P.Nos.10549, 10550, 10576 and 10577 of 2017

Crl.O.P.No.17218 of 2017:

1.E.Lenin
2.E.Stalin

... Petitioners / Accused

/vs./

1.The Inspector of Police,
Central Crime Branch – 2,
Anti Land Grabbing Wing,
Veppery,
Chennai – 600 002.

... 1st Respondent / Complainant

2.K.Ramadass

... 2nd Respondent /Defacto Complainant

Crl.O.P.No.17251 of 2017:

1.K.Ramadoss
2.P.Dasarathan
3.K.Vasu
4.Baskaran
5.Krishnamoorthy

... Petitioners / Accused

/vs./

1.The State represented by
The Inspector of Police,
T5, Thiruverkadu Police Station,
Chennai – 600 077.

... 1st Respondent / Complainant

2.E.Lenin

... 2nd Respondent /Defacto Complainant

3.E.Stalin

... 3rd Respondent /Defacto Complainant

PRAYER in Crl.O.P.No.17218 of 2017: Petition filed under Section 482 of Criminal Procedure Code, to call for the records pertaining to C.C.No.1/2016 on the file of the learned Special Judicial Magistrate, Thiruvallur and quash the same in respect of the petitioners.

PRAYER in Crl.O.P.No.17251 of 2017: Petition filed under Section 482 of Criminal Procedure Code, to call for the records pertaining to C.C.No.246 of 2017 on the file of the Judicial Magistrate No.II, Poonamallee, Chennai and quash the same.

(in Crl.O.P.No.17218 of 2017)

For Petitioners : Mr.R.Singaravelan, Senior Counsel
for Mr.S.T.Natramil Kaviarasan

For R-1 : Mrs.V.Saratha Devi
Government Advocate (Crl. Side)

For R-2 : Mr.E.Om Prakash
Senior Counsel
for Mr.Krishna Ravindran

(in Crl.O.P.No.17251 of 2017)

For Petitioners : Mr.E.Om Prakash
Senior Counsel
for Mr.Krishna Ravindran
For R-1 : Mrs.V.Saratha Devi
Government Advocate (Crl. Side)
For R-2 & R-3 : Mr.R.Singaravelan
Senior Counsel
for Mr.S.T.Natramil Kaviarasan

COMMON ORDER

सत्यमेव जयते

Heard all learned counsels and learned Government Advocate.

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2. The common issue arising in both these criminal original petitions being one and the same, a common order is passed.

3. For the sake of convenience, the parties are referred to by their respective names in this order.

4. Brief facts of both the cases are as follows:

(i) The issue revolved around rival claim over a 'property comprised in S.No.12/6 measuring an extent of 5.65 Acres in Sundarachozhavaram Village, Avadi Firka, Poonamallee Taluk, Thiruvallur District' [hereinafter referred to as 'said property' for the sake of clarity and convenience]. While E.Lenin and E.Stalin claimed that the said property was purchased by their grandmother, namely Andalammal in the year 1961 and which in turn, had devolved on E.Lenin, who had executed a registered settlement deed in favour of E.Stalin through Document No.6065 of 2013, K.Ramadoss and his brother, K.Vasu claimed to be the absolute owners of the said property through a sale deed dated 26.05.1972 registered as Document No.3293 of 1972. When E.Stalin apprehended that K.Ramadoss and others were attempting to trespass into the said property, E.Lenin and E.Stalin have filed a suit in O.S.No.137 of 2013 before the learned Judicial Magistrate, Poonamallee, seeking for declaration of the title over the said

property together with consequential permanent injunction against them.
The said suit is pending.

(ii) While the complaint of K.Ramadoss stating that E.Lenin and E.Stalin had intended to grab the said property by creation of documents as of the property was purchased by their grandmother, Mrs.Andalammal, came to be registered in FIR No.363 of 2013 for the offences under Sections 465, 468 and 471 IPC, the subsequent complaint of E.Lenin alleging that K.Ramadoss and others had forged patta No.9 and attempted to grab their property, came to be registered in FIR No.234 of 2016 for the same offences under Sections 465, 468 and 471 IPC along with 506(i) IPC. The FIR in Crime No.363 of 2013 is under challenge in Crl.O.P.No.17218 of 2017 and the FIR in Crime No.234 of 2016 is the subject matter of Crl.O.P.No.17251 of 2017.

5. Both the learned counsels advanced elaborate arguments attempting to establish their rights over the said property and thereby, had accused each other of having forged documents for the purpose of creating rights over the property. The offences for which both the parties are charged are for forgery and using the forged document as genuine. In FIR

No.234 of 2016, K.Ramadoss and others have also been implicated of having committed the offence under Section 506 (i) IPC on the averment that the complainant is being threatened by unknown persons.

6. This Court is conscious of its powers under Section 482 Cr.P.C., for interference in a petition to quash the FIR. The Hon'ble Apex Court in its decisions in the case of **Sardar Trilok Singh and Others vs. Satya Deo Tripathi** reported in **AIR 1979 SC 850** and in the case of **Uma Shankar Gopalika vs. State of Bihar and Others** reported in **2005 10 SCC 336** had held that when the dispute raised in the criminal proceedings was purely civil in nature, the proceedings itself would be an abuse of process of law and consequently, the criminal proceedings are liable to be quashed.

7. For the reasons recorded herein, this Court is also of the view that the issue involved in both the criminal complaints is civil in nature and therefore, this Court would be justified in invoking its inherent powers under Section 482 Cr.P.C.

8. The main offences for which both the parties accused each other are for creation of forged documents, through which, both of them claim

titles in their respective names. Insofar as K.Ramadoss's claim over the said property through registered sale deed dated 26.05.1972 and Patta No.9 dated 07.04.2010 are concerned, E.Lenin and E.Stalin claim the said patta to be a forged document. Likewise, the claim of K.Ramadoss is that E.Lenin and E.Stalin had created a forged Patta No.2 in the name of Mrs.Andalammal. When K.Ramadoss had given a complaint, which came to be registered in Crime No.363 of 2013, E.Stalin had filed a suit, claiming right over the said property through a settlement deed executed by E.Lenin in his favour, in O.S.No.137 of 2017 for declaration of title in his favour. When E.Stalin had earlier given a complaint before the District Registrar, North Chennai, stating that the Patta No.9 was forged, an enquiry came to be conducted and it was held that Patta No.9 dated 07.04.2010 in favour of K.Ramadoss and others was not issued by the concerned Tahsildar. It is on the basis of this order of the Tahsildar, E.Lenin and E.Stalin have chosen to give a criminal complaint in Crime No.234 of 2016.

9. All the averments referred to in the complaint are the pleadings in O.S.No.137 of 2013 also. Likewise, in the proceedings before the District Registrar, North Chennai, dated 17.05.2016, both the parties were heard during the course of enquiry and it was ultimately held therein that the

dispute among them is a civil dispute, which can be resolved only before a civil Court. In an incidental proceedings before the District Registrar, North Chennai, the order passed therein on 31.05.2016 also states that the title over the said property can be determined only by a civil Court and that the Revenue authorities cannot determine such a title. The proceedings before the Revenue Authorities was predominantly on the allegation of either of the parties that their title and revenue documents have been forged. When the learned Judicial Magistrate, Poonamallee, has already seized of the matter in O.S.No.137 of 2013 and the revenue authorities have also expressed their views that the validity of the documents cannot be gone into and it is for the civil Court to determine the title of the parties, this Court is unable to comprehend as to how the police authorities can parallelly investigate the allegations imputed by both the parties against each other. As such, when the averments in the complaints clearly establish a civil dispute between the parties, this Court would be justified in invoking its inherent powers for the purpose of quashing the FIR.

10. In the light of the above observations, C.C.No.1/2016 on the file of the learned Special Judicial Magistrate, Thiruvallur and C.C.No.246 of 2017 on the file of the Judicial Magistrate No.II, Poonamallee, Chennai are

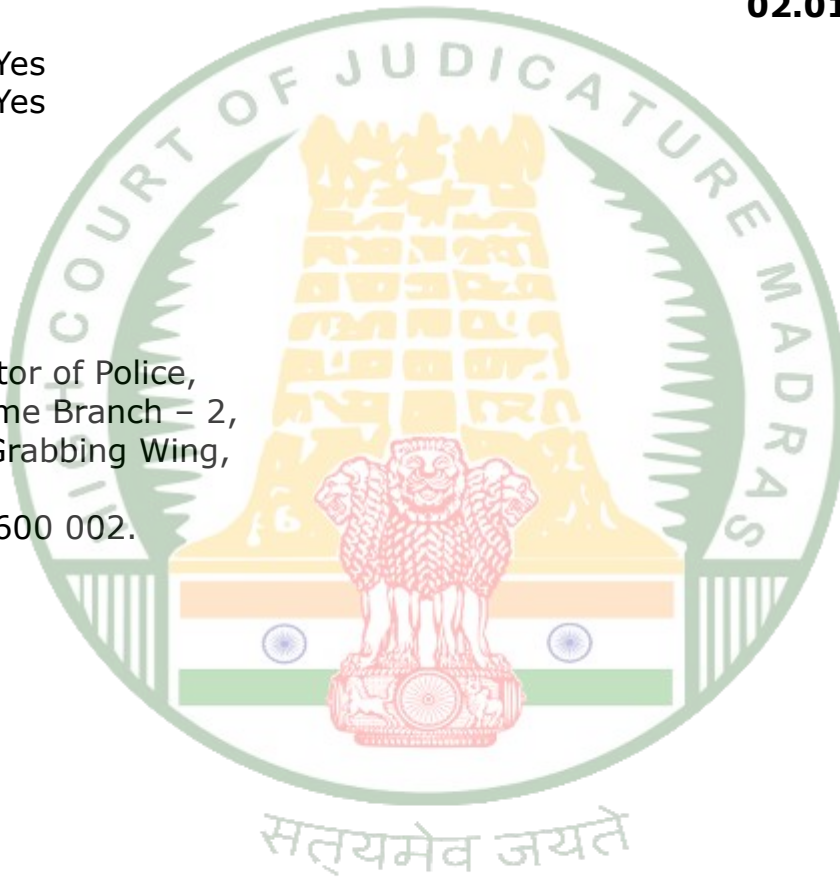
quashed. These Criminal Original Petitions stand allowed accordingly.
Consequently, connected Miscellaneous Petitions are closed.

02.01.2020

Index : Yes
Internet: Yes
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To

The Inspector of Police,
Central Crime Branch - 2,
Anti Land Grabbing Wing,
Veppery,
Chennai - 600 002.

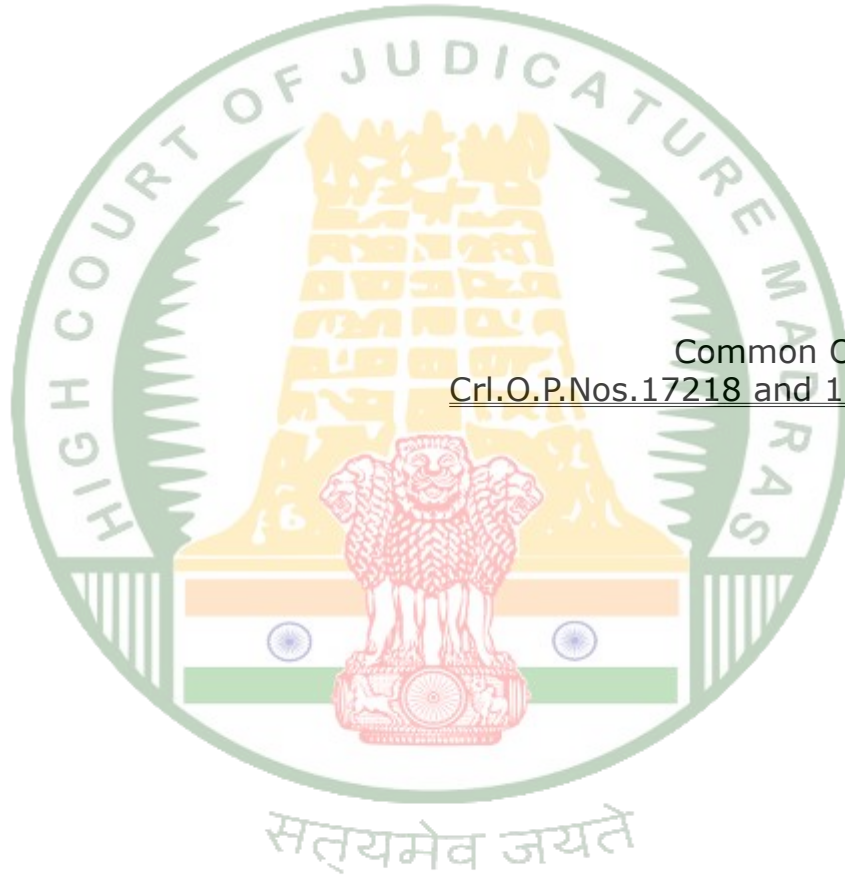


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Crl.O.P.Nos.17218 and 17251 of 2017

M.S.RAMESH, J.

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Common Order made in
Crl.O.P.Nos.17218 and 17251 of 2017

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Dated:
02.01.2020