



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 11.03.2020

Delivered on : 18.03.2020

CORAM:

THE HONOURABLE DR. JUSTICE G. JAYACHANDRAN

Crl.O.P. (MD)No.13365 of 2016

and

Crl.M.P. (MD)No.6250 of 2016

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1.V.Mercy
2.T.Arul Raja Kumar
3.T.Arul Jeyakumar .. Petitioners/A8 to A10
Vs.

1.The State Rep. by
The Inspector of Police,
Land Grabbing Cell, DCB,
Kanyakumari District,
at Nagercoil.
[Crime No.5/2016]

.. 1st Respondent/
Complainant

2.Sebastin, S/o.Nadarkutty Nadar .. 2nd Respondent/
De-facto complainant

Prayer:- Petition is filed under Section 482 of the Code of Criminal Procedure, to call for the records relating to proceedings in Crime No.5 of 2016 on the file of the respondent police and quash the same with respect to these petitioners.

For Petitioners : Mr.K.P.Narayanakumar

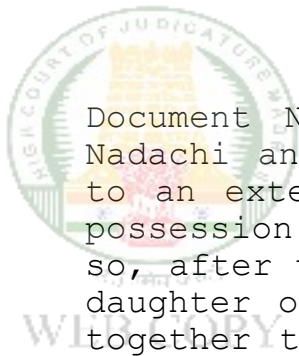
For R1 : Mr.S.Chandrasekar
Additional Public Prosecutor

For R2 : No Appearance

ORDER

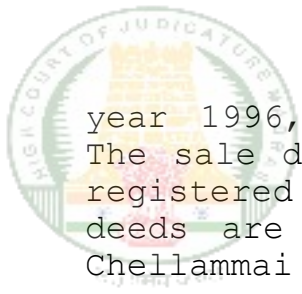
This petition is filed to quash the complaint preferred by one Sebastian, second respondent herein, against 11 persons, alleging forgery of documents for the purpose of cheating.

2.The complaint has been taken on file by the first respondent police in Crime No.5 of 2016. According to the complaint, the second respondent/de-facto complainant had purchased 16 ½ cents of land in S.No.234/8 at Nalloor Village, Vilavancode Taluk, Marthandam Registration District from one Thangaiyan, S/o.Podiappi Nadar, vide Document No.451/1996. His predecessor-in-title has purchased this property under two sale deeds registered in the year 1967 as



Document No.3658/1967, to an extent of 10 cents from Chellammai Nadachi and through Document No.4255/1967 from Muthaian and others to an extent of 6 ½ cents. From the date of purchase, he is in possession and enjoyment of the property and paying the kist. While so, after the death of the said Thangaiyan, his vendor, the wife and daughter of Thangaiyan along with one Muthu Pillai, have conspired together to grab the property, created false document in order to cheat the second respondent/de-facto complainant and created sale deed for 8 ½ cents of land in favour of Muthu Pillai, which was already sold to him by Thangaiyan. The said false document was registered as genuine by the Registrar Office, as Document No.547/2009. The said Muthu Pillai along with one Prince Foregeo had created a forged document for 8 ½ cents of land and registered the same vide Document No.573/2015. On the strength of the said forged document, Prince Foregeo attempted to enter into the land on 04.08.2015, claiming title over the property. In this regard, a complaint has been given to the Superintendent of Police on 24.08.2015. The said complaint was taken for petition enquiry in C.S.R.No.304/2015 and the same is pending. The husband and father of the petitioners viz., Thankappan purchased 1.782 cents of land on the southern side of S.No.234/8 through Document No.165/1988. After the death of the said Thankappan, the petitioners/A8 to A10 and one Akil Jaya, fraudulently created a document and sold the property of the second respondent/de-facto complainant to an extent of 6 cents along with the land of Thankappan viz., 1.782 cents, through Document No.510/2005 to Akil Jeya. The vendor of Akil Jeya has only right over 1.782 cents of land in the said survey number, and based on that document, on 11.11.2015, the said Akil Jaya has tried to trespass into the land and occupied the same. In this regard, the second respondent/de-facto complainant has sent a composite complaint on 14.04.2016 through post. The first respondent has registered the said complaint in D.C.B. Crime No.5 of 2016 and also forwarded the same to the concerned Judicial Magistrate.

3.These petitioners are arrayed as Accused Nos.8 to 10, who are the wife and sons of the said Thankappan. After the death of the said Thankappan, these petitioners have sold 7.782 cents of land in S.No.234/8 to Akil Jaya, vide Document No.510/2005, dated 06.07.2005. These petitioners trace their title over the extent of 7.782 cents of land through the Partition Deed entered between the sons of Samuel Nadar in the year 1982, to an extent of 6 cents of land and sale deed dated 07.04.1988, executed by Chellakan Nadar in favour of Thankappan to an extent of 1.782 cents. The partition deed relied by the petitioners for the extent of 6 cents is a registered deed at Parasala Registration Office, Kerala, on 22.05.1982. In the partition between the four sons of Samuel Nadar, 6 cents of land in S.No.234/8 at Nalloor Village, has been allotted to Thankappan. Thankappan on his own has purchased 1.782 cents of land from Chellakan Nadar on 07.04.1988, vide Document No.165/1988 at Marthandam Sub-Registrar Office. The second respondent/de-facto complainant traces his title through the sale deed executed in the



year 1996, registered as Document No.451/1996 by one Thangaiyan. The sale deed traced title over the property through the documents registered in the year 1967 in favour of Thangaiyan. These two sale deeds are to the extent of 10 cents and 6 ½ cents executed by Chellammai Nadachi and Muthaian and others respectively.

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4.From a perusal of the partition deed relied by the petitioners, who are arrayed as A8 to A10, it is seen that the subject property at Nalloor Village has come to the possession of Samuel Nadar family through the sale deed of the year 1951. Thus, while the second respondent/de-facto complainant relying upon the document of the year 1967, which is a sale deed in favour of his vendor and claim right over an extent of 16 ½ cents of land, these petitioners claim their title through the partition deed of the year 1982, wherein they have inherited the land to an extent of 6 cents in S.No.234/8 from Thankappan, who in turn got the property under the Partition Deed of the year 1982 and regarding 1.782 cents of land is concerned, they claim right through the sale deed of the year 1988 executed by Chellammai Nadachi in favour of Thankappan. There is no dispute regarding 1.782 cents of land, which was purchased from Chellammai Nadachi.

5.Now, between the petitioners and the second respondent/de-facto complainant the dispute is only in respect of 6 cents of land, which the petitioners trace their title through the partition deed of the year 1982. Whereas the second respondent/de-facto complainant traces his right through the sale deed of the year 1996 and his vendor has derived title through the sale deed of the year 1967. The complaint has been filed in the year 2016 alleging that the land in possession of the second respondent/de-facto complainant through the sale deed of the year 1996 is attempted to be grabbed by two sets of people based on the forged documents. Whether there is any mistaken identity of the property or intentional false document created by the parties concerned can be decided only after proper investigation.

6.For the same property, there are two sets of title deeds. Only one can be genuine and the other must be a false document created to grab the land. Since there is *prima facie* material for the police to investigate, it cannot be just seen as a civil dispute. This Court is not convinced by the submissions made by the learned counsel for the petitioners that it is purely a civil dispute, which has been given criminal colour belatedly. This Court at the time of admission, has only stayed the filing of final report. If the first respondent has collected enough materials to prosecute, he shall proceed filing appropriate report to the learned Magistrate. Any observations made by this Court in this Criminal Original Petition shall not have any bearing in the Trial Court's final decision.



7.In the result, this Criminal Original Petition is dismissed.
Consequently, connected Miscellaneous Petition is closed.

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Sd/-

Assistant Registrar (Records)

/ /2020

Sub Assistant Registrar(CS)

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To

1. The Judicial Magistrate,
Special Court for Land Grabbing Cases,
Tirunelveli.
2. The Chief Judicial Magistrate, Tirunelveli.
3. The Inspector of Police,
Land Grabbing Cell, DCB,
Kanyakumari District,
at Nagercoil.
4. The Additional Public Prosecutor,
Madurai Bench Madras High Court,
Madurai.
- 5.+1 CC to Mr.K.P.NARAYANA KUMAR, Advocate
(SR-12227[F] dated 18/03/2020)

Crl.O.P. (MD) No.13365 of 2016
18.03.2020

TP (08.05.2020) 4P 6C