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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15..12..2021

CORAM

THE HON'BLE MR.JUSTICE V.BHARATHIDASAN

CRIMINAL ORIGINAL PETITION NO.19671 OF 2015

AND

CRL.M.P.NO.1 OF 2015

M.Kasinathan

...Petitioner

Versus

1.The Sub Inspector of Police,  
Kurisalappattu Police Station,  
Kurisalappattu, Tirupathur Taluik,  
Vellore District.

2.Tmt.Thamizhchelvi

...Respondents

Petition filed under Section 482 of the Code of Criminal Procedure, 1973, praying to call for the records pertaining to the case in Crime No.173 of 2013 registered on the file of the 1<sup>st</sup> respondent police and to quash the same.

|                 |   |                                                                                              |
|-----------------|---|----------------------------------------------------------------------------------------------|
| For Petitioner  | : | Mr.T.V.Badrinarayanan                                                                        |
| For Respondents | : | Mr.C.E.Pratap,<br>Government Advocate<br>[Criminal Side] for R1<br>Mr.S.Panneerselvan for R2 |

ORDER

The petitioner, who has been arrayed as A1 in the case registered in Crime No.173 of 2013 on the file of the 1<sup>st</sup> respondent as against the petitioner and two others for the alleged offence under Section 420, 465, 294(b), 506(i) of IPC, has come forward with this original petition seeking to quash the FIR.

2. One Balakrishnan, the husband of the 2<sup>nd</sup> respondent, the petitioner (A1), Dayalan (A2) and Boopathy (A3) were brothers. They were the members of Hindu Joint Family and co-shares of ancestral properties comprised in various survey numbers, situated at Irunappattu Village, Aniyambadi Taluk, Vellore District. The 2<sup>nd</sup> respondent herein filed a complaint before the 1<sup>st</sup> respondent police alleging that earlier there was a



partition between the brothers and pursuant to the same, they had been in separate possession and enjoyment of their respective properties. Subsequently, the husband of the 2<sup>nd</sup> respondent and A2 had purchased the share of A3 by means of a registered sale deed. After the purchase, in order to cheat 2<sup>nd</sup> respondent, the petitioner herein (A1) and A2 had created a forged document and thereby misappropriated the property. Thereafter, on 03.09.2013, the petitioner and the other accused prevented one Sekar, who was a coolie under the 2<sup>nd</sup> respondent from doing cultivation work in the land and driven him out of the property and thereafter, the accused came to the house of the 2<sup>nd</sup> respondent and criminally intimidated her. Hence, she had lodged a complaint based on which a crime was registered for alleged offence under Section 420, 465, 294(b), 506(1) of IPC against the petitioner and two others. It is this criminal proceedings which is now sought to be quashed by A1.

3. The learned counsel appearing for the petitioner submitted that the dispute is civil in nature. There was a partition between the brothers in respect of the ancestral properties and the partition deed was not a fraudulently created as alleged by the 2<sup>nd</sup> respondent. Even though the 2<sup>nd</sup> respondent was a party to the partition, she did not come to the office of the sub registrar on the date when the deed was presented for registration. That apart, there are civil suits pending between the parties and in order to wreck vengeance against the petitioner, by giving criminal colour to a civil dispute, the 1<sup>st</sup> respondent had given the present complaint and no prima facie case has been made out against the petitioner for the offence alleged in the complaint.

4. I have heard the learned Government Advocate (Criminal Side) appearing for the 1<sup>st</sup> respondent and also the learned counsel appearing for the 2<sup>nd</sup> respondent.

5. According to the 1<sup>st</sup> respondent, there was a oral partition between the four brothers in respect of ancestral properties situated in Irunappattu Village, Vaniyambadi Taluk, Vellore District and subsequently, one of the brothers is said to have sold his share in favour of the petitioner and the husband of the 2<sup>nd</sup> respondent by means of a registered sale deed. Further, according to the 2<sup>nd</sup> respondent, in her absence, both the petitioner and the other accused had entered into a partition including the properties already inherited by her from her husband and registered the same before the Sub Registrar, Tirupathur, on 26.05.2006.

6. A perusal of the partition deed dated 26.05.2006 would show that even though the de facto complainant's was included in the deed, admittedly, she was not a party to the registration.



It is not known as to how the partition deed was registered without legal heirs of the one of the deceased co-shares present and signed the deed. Now, the allegation is that the petitioner and the other accused had created a forged partition deed and by using it, the accused are trying to grab the shares of the 2<sup>nd</sup> respondent. That part, there is also a specific allegation to the effect that all the accused had made an attempt to prevent the 2<sup>nd</sup> respondent from enjoying her share, criminally intimidated her and her coolie who was taking care of the agricultural operations on behalf of the 2<sup>nd</sup> respondent. These allegations, in the considered opinion of this court, would make out a prima facie case against the petitioner and as such this court does not find any merit in the petition and the petition is liable only to be dismissed.

In the result, the Criminal Original Petition is dismissed. Consequently, connected MP stands closed.

Sd/-  
Assistant Registrar(CCC)

// True Copy //

Sub Assistant Registrar

kmk

To

1.The Sub Inspector of Police,  
Kurisalappattu Police Station,  
Kurisalappattu,  
Tirupathur Taluik,  
Vellore District.

2.The Public Prosecutor  
High Court, Madras.

+1cc to Mr.T.V.Badrinarayanan, Advocate SR.No.67675

+1cc to S.Panneer Selvan, Advocate SR.No.67586

Crl.O.P.No.19671 of 2015

JPL(CO)  
RVM(21/01/2022)