



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 23.09.2021

CORAM

THE HONOURABLE MR.JUSTICE C.V.KARTHIKEYAN

CRL.OP.NO.27591/2015 & MP.NO.1/2015

[VIDEO CONFERENCING]

1.R.Sivalingam
2.A.S.Nataraj
3.S.Paramasivam
4.R.Sivaraj

...Petitioners

Versus

1. State by
The Inspector of Police
Mangalam Police Station
Tiruppur District.

2. K.Sarasumani

... Respondents

Prayer : -

Criminal Original Petition filed under Section 482 of Cr.P.C., to quash the Final Report in CC.No.647/2012 on the file of the learned Judicial Magistrate No.2, Tiruppur.

For Petitioners	:	Mr.R.Prabakar
For R1	:	Mr.E.Raj Thilak Additional Public Prosecutor

ORDER

- (1) A2, A3, A6 and A9 are before this Court and they filed the present Criminal Original Petition taking advantage of Section 482 of Cr.P.C., to quash the proceedings in CC.No.647/2012, pending on the file of the learned Judicial Magistrate No.2, Tiruppur, insofar as they are concerned.
- (2) A Final Report had been filed by the 1st respondent herein/Inspector of Police, Mangalam Police Station, in Tiruppur District, pursuant to the investigation conducted in FIR in Crime No.1883/2011 dated 29.09.2011. The said FIR came to be registered on the basis of a complaint given by the 2nd respondent herein, who actually was the wife of A1. That complaint was also dated 29.09.2011.



- (3) Heard Mr.R.Prabakar, learned counsel for the petitioner and Mr.E.Raj Thilak, learned Additional Public Prosecutor appearing for the 1st respondent.
- (4) The facts of the case are that admittedly, A1/husband of the 2nd respondent, was the owner of the properties which are the subject matter of dispute and which was situated in Mangalam Village measuring 1.78 acres in S.No.299/1B and a further 0.04 Cents in the very same S.No.299/1B, but which area was said to be a common area and also a further area of 0.05 cents in the very same Survey Number, but which had been set out as a cart track. The 2nd respondent herein claimed that the aforesaid lands had been settled in her favour by A1/her husband by a registered document bearing Doc.No.6722/1995 dated 28.11.1995. The said document was registered in the Office of the Sub Registrar Joint-1, at Tiruppur.
- (5) It would have been quite peaceful within the family, had A1 not undertaken or ventured into execution of further documents with respect to the same lands. For reasons best known only to him, he had unilaterally cancelled the Settlement Deed on 15.04.2005. Thereafter, he had entered into a registered Agreement of Sale with one Ponnuchamy. He then cancelled that particular Agreement of Sale also on 15.11.2005. Thereafter, on the very same day, i.e., 15.11.2005, he had entered into an Agreement of Sale with A2 with respect to 89 cents and for good measure, had appointed as his Power of Attorney Agent, A3 with respect to the remaining 90 cents. It is effectively meant that A1 had divested himself from the entire properties which he had originally settled in favour of his wife/2nd respondent herein.
- (6) A suit had also been filed in OS.No.628/2005 by the 2nd respondent, questioning these transactions. I am also informed that the said suit had been dismissed vide judgment dated 28.07.2016.
- (7) The 2nd respondent had simultaneously given a complaint as aforesaid, to the 1st respondent police pursuant to which, FIR in Crime No.1883/2011 had been registered for the offences under Sections 420, 120[B], 447, 294[b] and 506[i] IPC.
- (8) It also transpires that subsequently, A3 who was the Power of Attorney Agent, had sold the said 90 cents to A8, who had plotted out and sold the said lands to nine other individuals. A4 to A7 have been impleaded since they were at various stages, witnesses to the documents aforementioned.
- (9) During the passage of time, from the filing of the complaint till date, which is about nearly ten years, an unfortunate event had taken place, namely, that the defacto complainant/2nd respondent had died. In this regard, the



WEB COPY

learned counsel for the petitioner also filed her Death Certificate and it is seen that she died on 24.09.2017. A1 and the 2nd respondent had also been blessed with a son, but who had unfortunately predeceased them. This meant that on the death of the 2nd respondent, A1 became her only legal heir and that, Legal Heirship Certificate has also been produced before this Court.

- (10) In view of all these circumstances, particularly, since the 2nd respondent had died and there are no other legal heirs except for A1 and A1 appears to have dealt the properties in manner known to law, by way of registered documents and the suit which had been filed by the 2nd respondent, questioning the cancellation of Settlement Deed, having also been dismissed, I hold that continuing with the further progress of CC.No.647/2012 would only be an exercise in futility. The prosecution cannot produce as witness, PW1/2nd respondent herein to speak about the incidents and about what she perceived were offences committed, necessitating her to give a complaint before the 1st respondent police.
- (11) I therefore hold that the proceedings having taken a natural death, the present petitioners, viz., A2 who had registered an Agreement of Sale in his name, A3 who had a registered Power of Attorney in his name and A6 and A9 who are merely witnesses to the said documents, need not face the ordeal of trial. It would only be a tortuous experience since the defacto complainant herself is dead. I would therefore, interfere with the further progress of the said Calendar Case.
- (12) In the result, the Criminal Original Petition stands allowed quashing the further proceedings in CC.No.647/2012 on the file of the learned Judicial Magistrate No.2, Tiruppur, insofar as the petitioners/A2, A3, A6 and A9 are concerned. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

AP

To

1. The Judicial Magistrate No.2,
Tiruppur.



2. The Inspector of Police
Mangalam Police Station
Tiruppur District.

3. The Public Prosecutor
High Court, Madras.

+1cc to Mr.R.Prabakar, Advocate SR.NO.49187

Cr1.OP.No.27591/2015

VSNII (CO)
PM/13/10/2021