



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.12.2021

CORAM:

THE HONOURABLE MR.JUSTICE V.BHARATHIDASAN

CRL.O.P.NO.241 OF 2016

AND

CRL.M.P.NOS.111 AND 112 OF 2016

K.Sreevatsan

..Petitioner/Respondent-1

/versus/

1.C.Vijayan

..Respondent/Complainant

2.S.Nagarajan

..Respondent/Respondent-2

Prayer: Criminal Original Petition has been filed under Section 482 of Cr.P.C, praying to call for the records and quash the proceedings in C.C.No.61 of 2015 on the file of the District Munsif-cum-Judicial Magistrate Court, Sriperumpudur.

For Petitioners : Mr.N.L.Rajah, Senior Counsel
for Mr.A.S.Balaji

For Respondents : Mr.G.Anabaya Chozhan for R1
No appearance for R2

O R D E R

The petitioner, who is the 1st accused in a private complaint filed by the 1st respondent/complainant for the alleged offences under Sections 120B, 406, 417, 420, 448, 465, 466, 468 r/w 34 of IPC, and 294(B), 323 and 506 (I) of IPC on the file of the District Munsif-cum-Judicial Magistrate Court, Sriperumpudur, has filed this Criminal Original Petition to quash the proceedings.

2.Brief facts leading to filing of the quash petition are that, the de-facto complainant/1st respondent purchased a property under a registered sale deed vide. Doc.No.5647 of 2007 in old S.No.34/1, new S.No.34/15 and 34/12 measuring to an extent of 3288 sq.ft. situated at Keeranallur Village, Kancheepuram District, from one Peter Paul on 18.07.2007, subsequently, got a patta in his favour. The first accused/petitioner, by creating a bogus sale deed in respect of the property in S.No.34/15, got patta in his name. Based on that patta, the petitioner sold the property to the second accused



viz., Nagarajan and third and fourth accused are witnesses to the sale deed.

3. Earlier, the complainant has given a complaint before the 5th accused, the Sub Inspector of Police, Land Grabbing Wing, Kancheepuram, but the 5th accused did not conduct any enquiry on the complaint and without giving any opportunity to the complainant, she closed the complaint and the 5th accused also compelled the petitioner to withdraw his complaint. After that, the 6th and 7th respondents/6th and 7th accused came to the complainant's house and criminally intimidated him. Hence, he filed the present private complaint before the District Munsif-cum-Judicial Magistrate, Sriperumpudur and the trial Court has taken cognizance of offences and issued summons to the accused. Seeking to quash the same, the present petition has been filed by the first accused.

4. The learned Senior Counsel appearing for the petitioner submitted that the first accused is the absolute owner of the property measuring to an extent of 2226 sq.ft., comprised in S.No.34/15 situated at Keeranallur Village, Sriperumbudur Taluk, Kancheepuram District and a patta was also issued in his favour. Having valid title over the property, he had sold the same to the second accused and he has been in possession and enjoyment of the same. Thereafter, the complainant tried to interfere with the peaceful possession and enjoyment of the second accused. Therefore, the second accused has filed a civil suit before the Sub Court, Kancheepuram seeking permanent injunction and the same is pending. That apart, the complainant is the owner of the property in S.No.34/1, alone and it is having separate boundaries. Whereas, the petitioner is the owner of the property in S.No.34/15 having a separate schedule and boundaries. The complainant has absolutely no right or title over the property in S.No.34/15, which is exclusively belongs to the second accused.

5. The learned Senior Counsel appearing for the petitioner further submitted that earlier, before giving a complaint to the District Crime Branch, Kancheepuram, the complainant has filed a petition before the Court in CrI.O.P.No.30206 of 2014, seeking a direction to register the complaint and this Court, by an order dated 26.11.2014 dismissed the criminal original petition as the dispute is civil in nature and directed the parties to work out their remedy before the competent Civil Court. Thereafter, the present complaint has been filed making all sort of vexatious allegations. According to the learned Senior Counsel appearing for the petitioner, it is a purely civil dispute between the parties and the present complaint has been filed by giving criminal colour to a civil dispute.



6. Opposing the same, the learned counsel appearing for the first respondent submitted that, the complainant is the absolute owner of the property in the disputed survey number is 34/15. However, the first accused, who is claiming title over the property, created a bogus patta in his favour and by using the same, he sold the property to the second accused. He further submitted that the materials placed before the Court would clearly show that the complainant is the owner of the property and the patta has been created fraudulently by the first accused. The learned District Munsif-cum-Judicial Magistrate, after considering the entire materials, found that a prima facie case was made against the accused and taken cognizance of offences, issued summons to the accused and there is no reason to interfere with the same.

7. I have considered the rival submissions made on either side and perused the materials available on record.

8. From a perusal of the records, it is seen that there is a serious dispute between the parties regarding the title over the property in question. The complainant claims to be the owner of the property in the disputed survey number is 34/15. However, it was disputed by the first accused, it is also stated that for the very same disputed property, a civil suit is pending between the parties. Since there is a title dispute between the parties, the civil Court is alone competent to decide the title between the parties.

9. That apart, as already stated above, admittedly, the complainant filed a similar complaint before the District Crime Branch, Kancheepuram and at the instance of the complainant, this Court had directed the police to conduct an enquiry into the complaint. Accordingly, after conducting the enquiry, the police had closed the complaint as the dispute is civil in nature and directed the parties to approach the Civil Court to get appropriate remedy.

10. Considering all the above circumstances, this Court is of the considered view that, it is purely a civil dispute between the parties and the parties have to get the dispute resolved through a civil forum. However, the present complaint has been filed by giving criminal colour to the civil dispute. The learned District Munsif-cum-Judicial Magistrate, without considering those materials, has taken cognizance of offences and issued summons to the accused. Thus, this Court is of the considered view that the criminal proceeding is nothing but abuse of process of law and the same is liable to be dismissed. Accordingly, the criminal proceedings in C.C.No.61 of 2015 pending on the file of the District Munsif-cum-Judicial



Magistrate Court, Sriperumpudur is liable to be quashed. Accordingly, it is quashed.

11. In the result, this Criminal Original Petition is allowed. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

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To:

1. The District Munsif cum Judicial Magistrate,
Sriperumbudur

+1cc to Mr.A.S.Balaji, Advocate, S.R.No.64511

Cr1.O.P.No.241 of 2016

and

Cr1.M.P.Nos.111 and 112 of 2016

SMI (CO)

KKV/04/02/2022