

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.02.2021

CORAM

THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

Crl. OP No.2708 of 2019

and

Crl. MP No.1728 of 2019

1. N.Santha
2. Jeganathan
3. M.S.Rajagopal
4. Parimalanathan
5. Santhini ... Petitioners/ Accused

vs.

1. The Inspector of Police,
Gobichettipalayam Police Station,
Erode District. Respondent / Complainant

2. Dr. N.Gunaseelan ... Respondent/Defacto Complainant

PRAYER: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to call for the records pertaining to the First Information Report in Crime No.217/2018 on the file of the first respondent and quash the same.

For Petitioners : Mr.I.C.Vasudevanan

For Respondents : Mr.M.Mohamed Riyaz,
Addl. Public Prosecutor
for R1
Mr.N.Manokaran, for R2

ORDER

This petition has been filed seeking to quash the FIR registered in Crime No.217 of 2018 pending investigation on the file of the first respondent.

2. The second respondent gave a complaint to the respondent Police on the ground that the petitioners have created a forged Will dated 02.10.2001 and have also filed a suit for partition

in OS No.74 of 2004, on the file of the Sub Court, Gobichettipalayam. This suit came to be disposed of by judgment and decree dated 24.11.2011, passing a preliminary decree in favour of the plaintiffs.

3. While filing the above suit, there was a reference to a Will dated 02.10.2001 which according to the second respondent was the forged Will. Even though there was a reference to the Will and it was relied upon, the same was not marked as a document in the suit.

4. The second respondent filed a complaint before the Judicial Magistrate No.I, Gobichettipalayam, against the first petitioner and her mother on the ground that they have used a forged Will. The private complaint became a subject matter of challenge before this Court in Crl OP No.6874 of 2013 and this Court allowed the petition and quashed the proceedings in CC No.16 of 2013, on the ground that the alleged Will was not even marked as a document during the pendency of the case.

5. The grievance of the petitioners is that the second respondent once again filed a complaint under Section 156(3) of the Code of Criminal Procedure, against the petitioners for the very same cause of action and an FIR came to be registered in Crime No.217 of 2018 on the file of the first respondent. Aggrieved by the same, the present petition has been filed before this Court.

6. When the matter came up for hearing on 11.02.2021, the learned counsel appearing on behalf of the second respondent submitted that A1 and A2 have filed two more suits in OS No.2 of 2018 and OS No.23 of 2018 before the Sub Court, Gobichettipalayam, claiming for damages against the second respondent on the ground that a false allegation was made against them, as if, they have relied upon a forged Will. This Court on hearing either side, passed the following order on 11.02.2021:

"Heard the learned counsel for the petitioner and the learned counsel appearing on behalf of the 2nd respondent.

Taking into consideration the facts and circumstances of the case, this Court gave certain suggestions to the counsel appearing on behalf of the petitioners. The learned counsel for the petitioners seeks time to take instructions from the petitioners.\

Post this case under the caption "for orders" on 18.02.2021."

7. When the matter was taken up for hearing today, the

learned counsel appearing on behalf of the petitioners filed two separate affidavits of A1 and A2. The relevant portion in the affidavit filed by the first petitioner (A1) is extracted hereunder:

"I submit that during the course of enquiry, this Hon'ble Court advised me to withdraw the said suit in O.S.No.2/2018 filed by me against the 2nd respondent. As such, I file the present undertaking affidavit and hereby undertake to withdraw the said suit in O.S.No.2/2018 on the file of the Sub Court, Gobichettipalayam filed by me without any condition."

The relevant portion in the affidavit filed by the second petitioner (A2) is extracted hereunder:

"I submit that during the course of enquiry, this Hon'ble Court advised me to withdraw the said suit in O.S.No.23/2018 filed by me against the 2nd respondent. As such, I file the present undertaking affidavit and hereby undertake to withdraw the said suit in O.S.No.23/2018 on the file of the Sub Court, Gobichettipalayam filed by me without any condition."

8. In view of the above development, no useful purpose will be served in keeping the FIR pending and the same requires the interference of this Court in exercise of its jurisdiction under Section 482 of the Code of Criminal Procedure.

9. In view of the above discussion, the FIR in Crime No.217 of 2018 pending investigation on the file of the first respondent is hereby quashed and this Criminal Original Petition is disposed of accordingly. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

jv

To

1. The Inspector of Police,
Gobichettipalayam Police Station,
Erode District.

2.The Sub Court,
Gobichettipalayam.

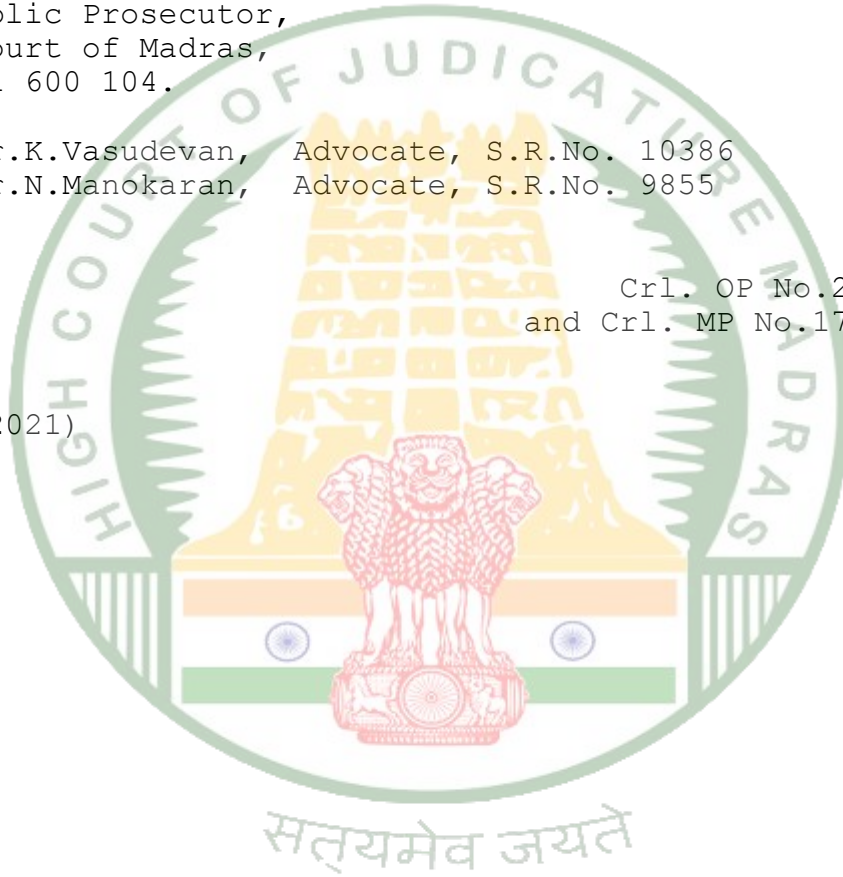
3.The Judicial Magistrate No.1,
Gobichettipalayam.

4. The Public Prosecutor,
High Court of Madras,
Chennai 600 104.

+1cc to Mr.K.Vasudevan, Advocate, S.R.No. 10386
+1cc to Mr.N.Manokaran, Advocate, S.R.No. 9855

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GMI (CO)
GN(15/03/2021)



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