



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 20.09.2021

PRONOUNCED ON : 24.09.2021

CORAM

THE HON'BLE MR.JUSTICE C.V.KARTHIKEYAN

CRL.O.P.NO.6537 OF 2016

AND

CRL.M.P.NO.3412 OF 2016

S.Kathiravan

.. Petitioner/2nd Accused

Vs.

V.Gopinath

.. Respondent/Complainant

Prayer:

Criminal Original Petition filed under Section 482 Cr.P.C., to call for the records in C.C.No.174 of 2015 on the file of the Judicial Magistrate Court No.II, Krishnagiri and to quash the same as against the petitioner.

For Petitioner

.. Mr.S.Satish

For Respondent

.. No appearance

ORDER

This Criminal Original Petition has been filed under Section 482 Cr.P.C., by the 2nd Accused in C.C.No.174 of 2015 pending on the file of the Judicial Magistrate No.II, Krishnagiri seeking to quash the said calendar case insofar as the petitioner/A2 is concerned.

2.Heard Mr.S.Satish, learned counsel for the petitioner.

3.Mr.N.Elayaraja and Mr.K.Nagarajan learned counsels had entered appearance on behalf of the respondent / defacto complainant. A perusal of the notes paper reveals that they represented the case on one hearing and then absented themselves. They then again sought time and then again absented themselves. It was made clear that they should advance arguments



on 16.09.2021. On 16.09.2021 there was again no effective representation on behalf of the respondent. The matter was again posted to 20.09.2021 and it had been very specifically stated that orders shall be passed whether the respondent was represented or not.

4.Perused the records.

5.The defacto complainant, and his father who acted for himself and on behalf of another son who was a minor had jointly executed a Power of Attorney dated 25.07.2012 registered as Document No.216 of 2012 in the office of the Joint II, Sub-Registrar Office, Krishnagiri in favour of A1 with respect to their property at S.Nos.140/2B, 140/3A2, 140/3A3, 366/1A1B measuring to an extent of 1.57 acres at Allapatti Village, Krishnagiri Taluk, Krishnagiri District.

6.Subsequently, petitioner A2 had entered into an Agreement of Sale with A1 which Agreement of Sale was registered as Document No.2359 of 2012 in the Joint II, Sub-Registrar Office, Krishnagiri. Thereafter, a Sale Deed was executed by A1 in favour of A2 on 27.05.2013 which was registered as Document No.1902 of 2013 again in the same Sub-Registrar Office. The petitioner / A2 after purchasing the said property had obtained Patta, Adangal and all other revenue documents. The petitioner claimed that he is in possession.

7. In the year 2014, the minor son filed O.S.No.18 of 2014 before the Principal District Court at Krishnagiri for partition and separate possession of the very same property and also sought a declaration to set aside the sale deed dated 27.05.2013 executed in favour of the petitioner / A2. That suit was dismissed with costs after trial on 02.03.2015. An appeal filed before this Court in A.S.No.303 of 2015 was also dismissed on 09.09.2021.

8.On 12.02.2015, the petitioner herein had given a complaint against the respondent and other persons before the Krishnagiri Police Station complaining trespass into the lands. C.S.R.No.167 of 2015 was given and it was stated that the matter is at civil dispute.

9.Thereafter, the respondent who had actually executed a Power of Attorney along with his father in favour of A1 pursuant to which the property had been conveyed by A1 to the petitioner had given a complaint stating that the petitioner along with other accused had committed the offences under Sections 148, 294 (b), 324, 506(i) IPC. This complaint was taken cognizance as C.C.No.174 of 2015 by the Judicial Magistrate No.II, Krishnagiri.



10.The present Criminal Original Petition has been now filed by the petitioner / A2 to quash further proceedings in C.C.No.174 of 2015.

11.A perusal of the complaint shows that the respondent had not stated any fact about signing, along with his father and executing the power of attorney and registering the same in the office of the Sub-Registrar Office on 25.07.2012. Having executed and participated in the registration of the said power of attorney, suppression of that fact in the complaint is material. The respondent had also not stated that a suit in O.S.No.18 of 2014 had actually been dismissed with costs by the learned Principal District Judge, Krishnagiri. He was a defendant in that suit. All that is stated that A.S.No.303 of 2015 is pending.

12.The complaint suffers from deliberate suppression of material facts.

13.As a matter of fact, along with this petition, the petitioner had also filed the sale deed in his name and also copies of Patta, Chitta and Adangal, which evidently establish possession.

14.Therefore it is very evident that the complaint lodged alleging that the petitioner and other accused entered into the property and trespassed into the property was a false complaint, because the property belongs to the petitioner herein who is also in lawful possession as rightful owner.

15.In view of all these facts, I have no hesitation in holding that the entire complaint is an abuse of process. Therefore this petition is allowed and C.C.No.174 of 2015 is quashed insofar as the petitioner/A2 is concerned. Consequently, the connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

smv

To

1. The Judicial Magistrate No.II,
Krishnagiri.



2. Do Through Chief Judicial Magistrate,
Krishnagiri.

3. The Inspector of Police,
Central Crime Branch,
Chennai City, Chennai.

4. The Public Prosecutor,
High Court, Madras-104.

+2cc to Mr.S.Satish, Advocate, S.R.No.49572

+1cc to Mr.N.Elayaraja, Advocate, S.R.No.49360

Crl.O.P.No.6537 of 2016

PM(CO)
CS/13/10/2021