



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 17.08.2021

PRONOUNCED ON : 23.09.2021

CORAM

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

Crl.O.P.No.3955 of 2021

and

Crl.M.P.No.2379 of 2021

R.Jayachandran

... Petitioner

Versus

1.State Rep.by

The Inspector of Police,
S-8, Adambakkam Police Station,
Adambakkam,
Chennai - 600 088.

2.P.Deekaram (Deceased)

... Respondents

PRAYER: Criminal Original Petition is filed under Section 482 of the Code of Criminal Procedure, to call for the records in Crime No.1769 of 2014 on the file of the Inspector of Police, S-8, Adambakkam Police Station, Chennai and quash the same.

For Petitioner : Mr.Abudukumar Rajarathnam for
Mr.G.Krishnakumar

For Respondent : Mr.A.Damodaran(for R1)
Government Advocate(Crl.side)

ORDER

This petition has been filed to call for the records in Crime No.1769 of 2014, on the file of the Inspector of Police, S-8, Adambakkam Police Station, Chennai and quash the same.

2. The petitioner/accused, in Crime No.1769 of 2014 for the offence under Sections 447, 341 and 506(i) IPC, has filed this quash petition.



3. The gist of the complaint is that the defacto complainant P.Deekaram had lodged a complaint on 03.11.2014 to the respondent Police stating that he is residing at Athur Thimmavaram Village High Road, Chengalpattu Taluk, Kancheepuram District and property in Adhambakkam Village, comprised in Survey No.71/1 to an extent of 0.98 cents is his rightful possession in patta No.48. The petitioner herein is the son of Late.A.S.L.Rajan and his son Bharath claimed right over the property through Doc.No.571 of 1971 from the Tiruvannamalai Aadheenam Inam Act and patta has been obtained for the same. The land belongs to minor inam, further, there is some dispute over the same and due to which a case is pending before the Civil Court. The property in possession and enjoyment of the defacto complainant has been criminally trespassed and encroached upon and sealed with sheets covering the property, the defacto complainant was restricted to enter into his property. Thereafter, the defacto complainant approached the Revenue Officials and the Survey Department to survey the land and to mark the boundaries. The Special Thasildar agreed to the same. When the defacto complainant was making arrangement for the same, the petitioner herein objected for the same and threatened the defacto complainant and abused him that he would be done away. Hence, the complaint was lodged.

4. The contention of the petitioner is that the subject property is at Adhambakkam Village, comprised in Survey No.71/1 & 71/3 to an extent of 3.11 acres and the same was purchased by the petitioner's father Late.A.S.L.Rajan, pursuant to a sale deed in Doc.No.571 of 1971 and patta issued by Assistant Settlement Officer, Tiruvannamalai under Inam Act. Suppressing the said facts, the defacto complainant had approached the Revenue Divisional Officer, Tambaram and obtained patta in his name, despite the fact that the said RDO, Tambaram has no jurisdiction to issue patta. Thereafter, the defacto complainant settled the property in Doc.No.2638 of 2015 on 15.04.2015 to his son and now challenging the same in the above case. The petitioner earlier moved a quash petition before this Court in CrI.O.P.No.699 of 2015 and this Court on the submission of the petitioner as well as the defacto complainant had given a direction to the respondent Police to complete the investigation in Crime No.1769 of 2014 after giving opportunity to the petitioner and the respondent within a period of Twelve weeks. Thereafter, the petitioner submitted all the necessary documents and the order of this Court before the law enforcing agency. Thereafter, no action taken. Hence, filed the present quash petition.



5. The learned counsel for the petitioner has submitted that the defacto complainant has no locus standi to lodge this complaint in view of the undisputed fact that the complainant, claiming title over the petitioner's property comprised in Survey No.71/1 and 71/3, Adhambakkam Village filed a Civil Suit in O.S.No.582 of 1997, which was dismissed on 30.04.2003 after full-fledged trial. Thereafter, appeal in A.S.No.83 of 2009 was filed and later withdrawn. Suppressing these facts, the defacto complainant approached the Revenue Divisional Officer, Tambaram, obtained patta in his name. The petitioner herein challenged the same in W.P.No.13302 of 2015 and the same was allowed, setting aside the order passed by the Revenue Divisional Officer, Tambaram, as non est in the eye of law, further ordered restoring the patta issued on 22.11.2012 in the name of the petitioner's family and the same to be recorded in the Revenue records.

6. The case of the petitioner is that the subject property is an inam property measuring 3.11 acres purchased by Late.A.S.L.Rajan. There was civil suit filed against Late.A.S.L.Rajan in O.S.No.779 of 1975 and the said suit was dismissed after contest, by the judgment and decree dated 28.04.1988 and the another suit was filed in O.S.No.582 of 1997 and the same was also dismissed on 30.04.2003. The Late.A.S.L.Rajan developed a layout after obtaining the permission and a portion of the property was sold to the Tamil Nadu Government for formation of inner ring road in the year 2000 and sale deed was registered. The petitioner applied for patta and the same was issued in favour of the petitioner.

7. The defacto complainant/second respondent executed the settlement deed dated 15.04.2015 in favour of his son D.Nethaji. Thereafter, the petitioner made a complaint to the registering Authority to take action against the said D.Nethaji for the fraudulent transaction. Action was initiated under Section 83 of the Registration Act. It is seen from various proceedings of civil cases, Writ proceedings and various Court orders, petitioner has established that the defacto complainant failed in all those proceedings and executed a settlement deed without any semblance of right and thereafter, now on the strength of the settlement deed, the entire case is proceeded and investigated. After the confirmation of right, possession and enjoyment of the petitioner by competent Civil Court and this Court in all proceedings, the respondent Police continuing the investigation is against law. Further, in support of his contention, he referred to the detailed order passed in W.P.Nos.18721, 18725 and 18730 of 2020, dated 15.12.2020, wherein, this Court in detail gone into the issues and gave a positive and authoritative finding that the defacto complainant and his son have created forged documents and with the help of



these created documents, obtained patta from the Revenue Divisional Officer, Tambaram, which is now set aside by this Court, as non-est in the eye of law. Earlier, the Civil Court dismissed the suit filed by the defacto complainant and his predecessor. Suppressing the same, the defacto complainant executed a settlement deed in favour of his son D.Nethaji and another in total disregard to the orders of the competent Court and the Authority. Thereafter, obtained patta, followed with the registered settlement, the same now reflects as encumbrance to the property and removing the encumbrance by producing requisite documents through the Civil Court and removing the encumbrance is an arduous task, which would take years. There by indirectly help the defacto complainant to achieve his purpose. Finding such obstacle, this Court in the above Writ Petition had given directions as follows:-

"this Court holds that the settlement deed dated 15.04.2015 registered as Doc.Nos.2637 & 2638 of 2015 executed by the defacto complainant in favour of his son is non-est in the eye of law. The petitioner shall present the Writ Petition order copy for registration before the Alandur Sub-Registrar and the same shall be registered after collecting necessary stamp duty and registration fees and by such registration, automatically, the earlier registrations will get reversed."

8. Thereafter in compliance to the orders of this Court he had filed the document which has been registered in Doc.No.50 of 2021. In view of the same, nothing survives for investigation in this case and prayed for quashing.

9. It is reiterated that the defacto complainant died on 01.11.2020. Hence, notice was ordered to be taken to his son D.Nethaji in whose favour the property is settled by the defacto complainant. The said D.Nethaji received the notice on 03.07.2021, thereafter, failed to appear. The said P.Deekaram father of D.Nethaji had participated in the quash proceedings in Crl.O.P.No.699 of 2015 and he is aware of the order of this Writ Petition in W.P.Nos.13302 & 13303 of 2015 declaring the Revenue Divisional Officer, Tambaram, issuance of patta as non-est in the eye of law. In view of the same, any settlement made by his father, is of no relevance.

10. The learned Government Advocate (Crl.Side) filed a status report. Apart from reiterating what is stated in the complaint, and about various proceedings, he submitted that the defacto complainant and his sons Suresh, Nethaji and one Chandrasekaran were examined in this case, who corroborated the contention of the complaint. Further, the investigation in this case was completed by the Inspector of Police and shortly final



report to be filed. Further referring to the earlier order in the quash petition in Crl.O.P.No.699 of 2015, he submitted that the investigation in this case is carried out in fair manner, in accordance with law and in pursuance of the order of this Court, investigation is almost completed and final report to be filed shortly.

11. This Court considered the rival submissions and perused the materials available on record.

12. It is surprising to see from the status report filed by the respondent Police that nowhere it is mentioned about the earlier proceedings of the civil suit and Writ proceedings of the year 2015 and thereafter, proceedings of the year 2020, wherein, detailed orders have been passed, and further pursuant to the orders of this Court in Crl.O.P.No.699 of 2015 dated 21.02.2020, what was the materials collected and what enquiry conducted, no detail was available. It is seen that the petitioner submitted a detailed representation on 30.09.2019 giving all particulars in his representation. Thereafter also no action taken. Further the respondent police have gone into deep slumber despite specific direction of this Court. It is seen that the defacto complainant suppressed the earlier civil suit and the adverse orders passed against him. Further the patta in the name of the defacto complainant was cancelled as non-est in the eye of law, by order of this Court in W.P.Nos.13302 & 13303 of 2015 dated 20.11.2019.

13. It is seen that the complaint of the defacto complainant does not disclose the true and correct facts. The respondent Police failed to ascertain the same despite the specific orders of this Court. The order in W.P.Nos.13302 & 13303 of 2015 dated 20.11.2019 declared the patta of the defacto complainant as non-est in the eye of law, followed by W.P.Nos.18721, 18725 and 18730 of 2020 dated 15.12.2020, directing the Registering Authority to remove the encumbrance. Both the orders are detailed ones. Further, the patta and the settlement deed executed by the defacto complainant have been set aside declaring them as non-est in the eye of law and removed the encumbrance.

14. The Revenue records stands in the name of the petitioner. The encumbrance created to the property now stands removed. The petitioner is declared to be the rightful owner, who is in possession and enjoyment of the property. The complaint of defacto complainant and the First Information Report does not make out any prima facie case to proceed against the petitioner. In view of the above, continuation of investigation would amount to abuse of process of law.



15. In view of the same, the First Information Report in Crime No.1769 of 2014 and consequential charge sheet, stands quashed.

16. With the above direction, this Criminal Original Petition is allowed. Consequently, connected Miscellaneous Petition is also closed.

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

dna

To

1.The Inspector of Police,
S-8, Adambakkam Police Station,
Adambakkam,
Chennai - 600 088.

2.The Public Prosecutor,
High Court, Madras.

+2cc to M/s.G.Krishnakumar, Advocate Sr.49688

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and
Cr1.M.P.No.2379 of 2021

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srg 20/10/2021