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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.09.2021

CORAM:

THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

CRL.O.P.No.14762 of 2021

Mrs.Sasikala

...Petitioner

Versus

Inspector of Police,
District Crime Branch,
Tiruvallur District, Tiruvallur.
(Crime No.4/2021)

...Respondent

PRAYER: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to direct the respondent to investigate the case, Crime (F.I.R.) No.4 of 2021, on the file of the respondent and to file final report before the appropriate court in accordance with law.

For Petitioners : Mr.R.Munusamy.

For Respondents : A.Damodaran
Addl. Public Prosecutor.
Mr.Abudu Kumar Rajaratnam
for (A2)
(Vakalat not filed)

ORDER

This Criminal Original Petition has been filed to direct the respondent police to complete the investigation and file final report in Crime No.4 of 2021.

2. The learned counsel for the petitioner would submit that on the complaint of the petitioner, a case in Crime No.4 of 2021 for the offences under Section 406, 417, 420, 469 and 471 IPC came to be registered against the 5 persons. Out of them, 3 are Public Servants, namely, Thasildhar, Ponneri, Thasildhar, Thiruvallur and Sub Register, Manavala Nagar, Thiruvallur. The petitioner's parents, Viz., Munusamy Naidu and Kanthammal died in the year 1971 and 1987. They had 5 children including the petitioner, including, 2 male members Viz. Subramani and Deenadayalan/A1 in this case. The petitioner and another

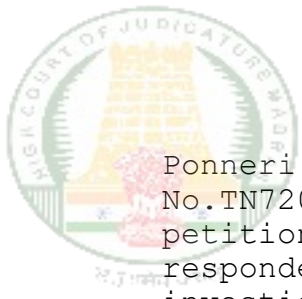


sister, namely, Santhi were left out in the family partition and they were not allowed to enjoy the family property. Hence, they filed a Original Suit in O.S.No.456 of 1989 before the District Munsif Court, Ponneri and a preliminary decree was passed in favour of them on 25.07.2006, in which, an Advocate Commissioner was appointed to survey, measure and divide the property into 5 equal shares and 1/5th of the share was allotted to the petitioner. Thereafter, final decree was also passed and petitioner's allotment was confirmed. In the meanwhile, one of the brothers, namely, Subramani passed away. The another brother, namely, Deenadayalan had obtained false legal heir certificate stating that he is the only surviving legal heir to his parents and by using the same, he sold the property, which was allotted to the petitioner, in favour of A2.

3. He would further submit that all the accused had conspired together and created a forged document and thereby, the petitioner's legal ownership and enjoyment of the property denied, despite she obtained order from the Civil Court, which has become final. Since A2 in this case is a powerful personality, the respondent police are not taking any action on the complaint of the petitioner. Hence, the petitioner was constrained to move the Judicial Magistrate under Section 156(3) Cr.P.C. Thereafter, only on the direction of the Magistrate, the First Information Report came to be registered. Even thereafter, no worthwhile investigation has been carried out and now, the case is put under a cold storage. Hence, the above petition.

4. Earlier, on 25.08.2021, this court, finding that the Public servants are involved in this case and no action has been taken, directed the Superintendent of Police, Thiruvallur to monitor the investigation and file a status report.

5. The Superintendent of Police, Thiruvallur had filed a detailed status report, dated 21.09.2021, before this Court about the stage of the case and the steps taken during investigation. From the Status Report, it is seen that A2, in this case, came to know about the legal proceedings with the regard to the property, only on 13.09.2021, after receipt of 41 (A) Cr.P.C. notice. Thereafter, immediately, on 15.09.2021, A2 had cancelled the sale deed in Doc.No.312 of 2020 dated 03.02.2020, vide Document No.3360 of 2021 on the file of the Sub-Registrar, Manavalanagar on 15.09.2021. Thereafter, on 18.09.2021, A2 had appeared before the Inspector of Police, Anti Land Grabbing Special Cell, Thiruvallur and produced the copy of the cancellation deed. As per the directions issued by this Court, the Revenue Divisional Officer, Ponneri, revoked the falsified legal heir certificate issued by the Tahsildar,



Ponneri. Subsequently, a new legal heir certificate No.TN7202003121203, dated 18.03.2020, including the name of the petitioner and 7 others, had been issued. Accordingly, the respondent police are taking earnest steps to proceed with the investigation and to conclude the investigation within a stipulated time.

6. Mr. Abudu Kumar Rajaratnam, learned counsel appearing for A2/ S.Arunkumar, Trustee, Tmt. Kannammal Education Trust, produced the document of Cancellation of Sale deed and submitted that on coming to know the fact, A2 despite cheated, cancelled the sale deed immediately and now the property has been restored, to the petitioner.

7. This Court considered the submissions and perused the materials available on records carefully.

8. On perusal of records, it is seen that substantial portion of investigation is almost completed. A2 is an innocent purchaser and he was cheated by A1, and to prove his genuineness, he got cancelled the sale deed vide Document No.3360 of 2021 and copy of the same was A2 had purchased the property from A1 for a sale consideration of Rs.68,62,000/- (Rupees Sixty Eight Lakhs Sixty Two thousand only) paid by way of Demand Draft No.572824 dated 28.01.2020 drawn on City Union Bank Ltd., Maduravoyal Branch, Chennai - 600 095 in favour of the A1, Dheendayalan. On the face of it, it is apparent that it is genuine transaction and A2 is only an innocent purchaser, which is also confirmed from the status report. Further, the conduct of A2, i.e., cancelling the sale deed immediately after receipt of the 41(A) Cr.P.C., confirms the same.

9. At this stage, the learned counsel for the petitioner would submit that already A2 had demarcated the property of 1 Acre and 88 Cents and fenced it and gated the property.

10. The learned counsel for the A2 would submit that he will send a representative to hand over the key and as earlier stated, he will not claim any right over the property and the petitioner can enjoy the gated fenced property. He would further submit that finding that the title deeds are not proper and some forgery has taken place, even without getting back the sale consideration, he had cancelled the sale deed and hence, he may be permitted to proceed against A1 for getting back his hard earned money.



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11. Recording the submissions, and finding that the investigation is proceeding in the right direction, this Criminal Original Petition is disposed of.

Sd/-

Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

mrp/mdl

To

1. The Inspector of Police,
District Crime Branch,
Tiruvallur District,
Tiruvallur.
2. The Public Prosecutor,
High Court, Madras.

+lcc to Mr.R.Munusamy, Advocate, S.R.No.49220

+lcc to Mr.Abudu Kumar Rajaratnam , Advocate, S.R.No.49689

CRL.O.P.No.14762 of 2021

SSD[co]
NSK 28/10/2021