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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.11.2021

CORAM:

THE HON'BLE MR.JUSTICE N. SATHISH KUMAR

Crl.O.P.No.3464 of 2017

and

Crl.M.P.No. 2503 of 2017

1. Kothandapani,
S/o. Krishnasamy
 2. Nithiyanantham,
S/o. Krishnasamy
 3. Vasudeva Gramani,
S/o. Perumal Gramani
 4. Vasanthi
 5. Sekar,
S/o. Late Sundaramoorthy Gramani
 6. Sudarsanam,
S/o. Late Sundaramoorthy Gramani
- ... Petitioners

Versus

1. The Inspector of Police,
District Crime Branch,
(A L G S C), Villupuram,
Villupuram Dt.
 2. Jaganathan
- ... Respondents

PRAYER : Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to call for the records and quash the FIR registered against the petitioners in Crime No.39 of 2014 on the file of the 1st respondent police, the Inspector, District Crime Branch (ALGSC), Villupuram.

For Petitioner :Mr.B.Balavijayan

For Respondent :Mr.S.Vinothkumar
for Public Prosecutor for R1
:Mr.N.Suresh for R2



ORDER

(This case has been heard through video conference)

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This Criminal Original Petition has been filed to quash the F.I.R. registered in Crime No. 39 of 2014 for the offence under Section 420, 465, 468, 447 and 506(ii) I.P.C. lodged by the defacto complainant.

2. The allegation alleged against the petitioners/accused is that despite the property was allotted in the final decree passed in I.A.No.618 of 1962 in O.S.No. 56 of 1949, the petitioners/accused herein said to have trespassed into the property on 15.05.2013, besides, they have also created document in the year 1978. Subsequently, settlement deed was also executed. Hence, the F.I.R. has been registered for the offence under Section 420, 465, 568, 447, 506(ii) I.P.C.

3. It is the contention of learned counsel appearing for petitioners that after filing all the civil cases, a criminal law came in motion giving the colour of criminality. It is his contention that the properties have been allotted as per the final decree and there are litigation between the parties for many years. One such example is that an appeal in A.S.No.17 of 1989 was preferred, wherein it is culled out the litigation pending between the parties from the year 1931 and several suits have also been filed between the parties. Hence, it is submitted that entire allegations is nothing, but motivated and giving colour of criminality. Therefore, the F.I.R. is liable to be quashed.

4. Whereas, learned counsel appearing for defacto complainant would submit that despite the property was allotted in the final decree, the petitioners/accused have created a partition deed among themselves in the year 1978 and also settled the property in favour of one of the accused. Hence, the F.I.R. has been lodged.

5. Heard rival submissions made by both learned counsel appearing for petitioners as well as respondents and perused the records.

6. The main allegation in the F.I.R. itself would indicates that the petitioners/accused have entered into a partition deed on 16.12.1978 allotting properties, which was the subject matter of earlier partition suit, thereby, settlement deed was executed



between family members. Therefore, it is stated that those documents amount to forgery and fabrication of false records. It is not disputed that one Varathappa Gramani was a common ancestor and he had four sons. The defacto complainant is son of fourth son of Varathappa Gramani. The petitioners' accused are the sons of one Krishnasamy Gramani and Varathappa Gramani and the nature of relation between the parties is not in dispute. Similarly, many suits are also pending between parties, which is also not disputed. The Appeal in A.S.No.17 of 1989 filed between the parties would indicate that litigation among family members started from the year 1931 and still there several suits are pending, which is not in dispute. Now, the allegation is that the partition deed entered between one of the parties is amounting to forgery, fabrication of false documents and cheating. In such view of the matter, this Court is of the view that even the allegation was taken on face value as true, the defacto complainant's grievance is that the said document had defeated his right in the property. Hence, his remedy is elsewhere and not setting the criminal law in motion. Further, the partition deed dated 16.12.1978 stated to be forgery document, which was attested by none other than father of defacto complainant viz. Kannusamy gramani, son of Varathappa Gramani. In such view of the matter, the civil dispute cannot be converted into a criminal case. On perusal of entire complaint, this Court is of the view that the allegation made against the petitioners/accused is nothing, but motivated and given the colour of criminality. According to the petitioner, prosecution will amount to overrule the judgments of civil courts between the parties. Accordingly, this Court exercising its power under Section 482 of CrI.P.C. is inclined to quash the F.I.R. registered in Crime No.39 of 2014 on the file of 1st respondent police. Accordingly, this Criminal Original Petition is allowed. Consequently, the connected Criminal Miscellaneous Petition is closed.

SD/-
ASSISTANT REGISTRAR

// TRUE COPY //

SUB ASSISTANT REGISTRAR

rpp
To

The Inspector of Police,
District Crime Branch,
ALGSC, Villupuram.



Copy to

The Public Prosecutor,
High Court, Chennai-104.

CRL.O.P.No.3464 of 2017

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