

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 02.02.2021
CORAM

THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

Crl. OP No. 869 of 2017
and Crl MP Nos.738 & 739 of 2017

P.Surendran ... Petitioner/Accused No.2
vs.

1. State Rep. By its
The Inspector of Police,
District Crime Branch,
Anti Land Grabbing Special Cell,
O/o. The Superintendent of Police,
Nagapattinam, Nagapattinam District.
(Crime No.16 of 2014) Respondent/Complainant

2. L.Rajamani ... Respondent/Defacto Complainant

PRAYER: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to call for the records in C.C.No.40 of 2016 on the file of the learned Judicial Magistrate No.1, * **Nagapattinam** and quash the same.

*Amended as per the order of this Court dated 28.02.2017 in Crl. MP No.2947/17

For Petitioners : Mr.R.Shivakumar
for M/s.K.M.Vijayan Associates

For Respondents : Mr.C.Raghavan
Government Advocate, for R1

सत्यमेव जयते
O R D E R

This petition has been filed to quash the proceedings in CC No.40 of 2016, pending on the file of the Judicial Magistrate No.I, Nagapattinam.

2. The second respondent had given a complaint before the respondent Police to the effect that the subject property situated at Survey No.335/3 measuring an extent of 0.58 cents was originally owned by one Tmt.Mangalam. After her life time, her son Kuppusami became the owner of the property. He had two wives, viz. Jagathambal and Pounammal. He executed a Will in favour of Balasubramanian, who is the son of Jagathambal and bequeathed half share in the property, viz., 0.29 cents. The

balance 0.29 cents was bequeathed in favour of the male children of the second wife Pounammal.

3. The son of the first wife viz., Balasubramanian sold the property measuring an extent of 0.29 cents in favour of the second respondent by virtue of a registered Sale Deed dated 22.02.1973. It is stated that the second respondent has constructed a house and he is in possession and enjoyment of the property.

4. The other portion measuring an extent of 0.29 cents vested in the three sons of the second wife Pounammal. It is stated that the second respondent had handed over the original documents to her brother Sivasubramanian.

5. The grievance of the second respondent is that the accused persons managed to sell the entire extent of 0.58 cents in favour of the petitioner by virtue of a registered Sale Deed dated 01.09.2014. Before the Sale Deed was executed in favour of the petitioner, it is alleged that the said Sivasubramanian, who is A1 in this case had mortgaged the entire property measuring an extent of 0.58 cents by deposit of title deed. It is therefore alleged that the accused persons have grabbed the property belonging to the second respondent and based on this complaint, the Final Report came to be taken cognizance before the Court below for offences under Sections 120(B), 406, 465, 468, 447, 420, 294(b) and 506 (ii) IPC.

6. Heard Mr.R.Shivakumar, learned counsel appearing for M/s.K.M.Vijayan Associates, for the petitioner and Mr.C.Raghavan, learned Government Advocate (crl. Side) for the first respondent.

7. The sum and substance of the allegation made against the petitioner, who has been arrayed as A2 in this case is that an extent of 0.26 cents was sold to him by virtue of a Sale Deed dated 01.09.2014 for a total sale consideration of Rs.22,00,000/-. A careful scrutiny of the sale deed dated 01.09.2014 registered as document No.1762 of 2014 shows that what was conveyed to the petitioner was only 0.26 cents in R.S.No.335/3A2. This property was conveyed out of the total extent of 0.29 cents which was vested with the male children of the second wife Pounammal. The balance 3 cents was also retained by the said Sivasubramanian, who is arrayed as A1 in this case.

8. The entire case is based on records and the Sale Deed that was executed in favour of the petitioner (A2) does not cover the entire extent of 0.58 cents as claimed by the second respondent. Only an extent of 0.26 cents has been conveyed to

the petitioner. Under such circumstances, there is no question of attracting the provisions of forgery and cheating. Insofar as the petitioner is concerned what has been acquired by him is only an extent of 0.26 cents out of 0.29 cents which was vested in favour of the male children of the second wife Pounammal. Therefore, there is absolutely no material against the petitioner and no offence has been made out against him.

9. In view of the above discussion, the continuation of the Criminal proceedings against the petitioner will amount to an abuse of process of Court and it requires interference of this Court under Section 482 of the Code of Criminal Procedure.

10. In the result this Criminal Original Original Petition is allowed and the proceedings in C.C.No.40 of 2016 on the file of the learned Judicial Magistrate No.I, Nagapattinam, is hereby quashed insofar as the petitioner is concerned. Consequently, the connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS.III)

/True Copy/

Sub Assistant Registrar

To

1. The Judicial Magistrate No.1,
Nagapattinam.
2. The Inspector of Police,
District Crime Branch,
Anti Land Grabbing Special Cell,
O/o. The Superintendent of Police,
Nagapattinam, Nagapattinam District.
3. The Public Prosecutor,
High Court of Madras,
Chennai 600 104.

AKM/25.02.21/ 3P-4C/

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