



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.12.2021

CORAM :

THE HONOURABLE MR. JUSTICE N. SATHISH KUMAR

Crl.O.P.No.12568 of 2017

and

Crl.M.P.Nos.8214 & 8215 of 2017

1.Sarojini
2.Latha
3.D.Raja

... Petitioners/Accused 1 to 3

Vs.

1. State represented by
The Inspector of Police,
City Crime Branch,
Tiruppur City,
Tiruppur.

... 1st Respondent/Complainant

2. S.Sugumaran

...2nd Respondent/Defacto Complainant

Prayer: Criminal Original Petition filed under Section 482 Cr.P.C., to call for the records in C.C.No.301 of 2017 on the file of the Judicial Magistrate Court No.I, Tiruppur and quash the same.

For Petitioners: Mr.John Sathyan
for M/s.C.Prabakaran

For R1 : Mr.S.Vinoth Kumar
Government Advocate (Crl. Side)

For R2 : Mr.K.Mylsamy

O R D E R

This Criminal Original Petition has been filed to quash the final report in C.C.No.301 of 2017 on the file of the Judicial Magistrate Court No.I, Tiruppur.

2.The crux of the prosecution charges is that the accused created false documents in respect of the property, owned by the de facto complainant, to an extent 11.58 acres in Survey



Nos.749, 755, 756, 757, 758 and they have created documents including Power of Attorney and false Will in respect of the property. The accused have filed cases among themselves to create as if they have a title to the property, thereby, they committed the offences under Sections 467, 468, 471, 120B, 447, 466, 109 IPC and 82(d) of Registration Act, 1908.

3.It is the contention of the learned counsel appearing for the petitioners that the entire issue is civil in nature and there are many suits pending before the Courts, therefore, the petitioners cannot be prosecuted and the final report is liable to be quashed.

4.Per contra, the learned counsel for the respondent/de facto complainant submitted that, except one suit which was filed for bare injunction as against the de facto complainant, all the other suits have been filed by the accused among themselves to show as if they have title to the property and they have also entered into compromise in those suits. Whereas, the accused have created false Will in respect of the property and the materials unearthed by the prosecution clearly establishes the offence committed by the accused. Therefore, the learned counsel submitted that this quash petition is liable to be dismissed.

5.Heard the learned counsel on either side and perused the materials available on record.

6.Though one suit has been filed for bare injunction as against the de facto complainant, as rightly contended by the learned counsel for the respondent, most of the suits, in one way or the other, have been filed among the accused themselves. Mere filing of civil suits cannot be a ground to assume that there is no criminality attached with the accused. Whether the charges leveled against the accused are made out or not, is a matter of evidence. The crux of the allegations is creation of false documents in order to grab the property. Such allegations are to be tested only by appreciation of oral and documentary evidence before the trial Court and it is the duty of the prosecution to establish those allegations. Such an exercise cannot be carried out by this Court while exercising its jurisdiction under Section 482 Cr.P.C. Moreover, mere pendency of civil suits cannot be a ground to construe that the criminal complaint is motivated and is not maintainable in the eye of law. It cannot be applied mechanically in all cases. Each case has to be looked into on its own facts and circumstances. The materials unearthed by the prosecution after examining several witnesses and various documents prima facie indicate that there are materials to proceed as against the petitioners. In such view of the matter, I do not find any ground to quash the final



report at this stage.

7. Therefore, this Criminal Original Petition is dismissed. Consequently, connected miscellaneous petitions are closed.

8. The trial Court is directed to expedite the trial and dispose the matter as expeditiously as possible.

Sd/-

Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

mkn

To

1. The Judicial Magistrate No.1,
Tiruppur.
2. The Chief Judicial Magistrate,
Tiruppur.
3. The Inspector of Police,
City Crime Branch,
Tiruppur City,
Tiruppur.
4. The Public Prosecutor,
High Court, Madras.

+1cc to Mr.K.Mylsamy, Advocate, S.R.No.65760

+1cc to M/s.C.Prabakaran, Advocate, S.R.No.65616

Crl.O.P.No.12568 of 2017

AK-II(CO)

CT 29/12/2021