



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.12.2021

CORAM:

THE HONOURABLE MR.JUSTICE N. SATHISH KUMAR

Crl. O.P. Nos.14086 & 15524 of 2017
and Crl.M.P.Nos.9007,9008, 9866 & 9867 of 2017 and 11665 of
2018

1.Umamaheshwary

2.C.Ramasamy

3.V.Krishnakumari

4.L.S.Venkataraman

5.K.R.Veeraraghavan

6.V.Ayshwarya ...Petitioners/Accused 1 to 6
in Crl.O.P.No.14086/2017

1.BGR Boilers Pvt. Ltd,
a company incorporated
under the companies Act,1956,
having office at No.443, Anna Salai,
Teynampet, Chennai - 600 018,
Rep. by its Authorised Signatory.

2.Sasikala

3.V.R.Mahadevan

4.K.R.Anandan

5.Srinivasan ...Petitioners/Accused 7 to 11
in Crl.O.P.No.15524/2017

Vs.

1.State Rep. by its,
The Inspector of Police,
G-4, Cheyyur Police Station,
Kancheepuram District. ...Respondent 1/Complainant in
both Crl.O.P.'s

2.C.Santha ...Respondent2/Defacto-
Complainant in both Crl.O.P's



WEB COPY

PRAYER in Crl.O.P.No.14086 of 2017: Criminal Original Petition filed under Section 482 of Criminal Procedure Code, to call for the records and quash all the proceedings in C.C.No.103 of 2017 pending Trial on the file of the Learned Judicial Magistrate, Madhuranthakam, Kancheepuram District.

PRAYER in Crl.O.P.No.15524 of 2017: Criminal Original Petition filed under Section 482 of Criminal Procedure Code, to call for the records of the impugned Charge sheet/Final report No.14/2017 in C.C.No.103 of 2017, on the file of the Judicial Magistrate, Maduranthakam, registered for the alleged offences under Sections 120 (B), 465, 467, 468, 471, 420 r/w Section 34 of Indian Penal Code, and quash the same.

In both Crl.O.Ps:

For Petitioner in : Mr.R.Srinivas
Crl.O.P.No.14086/2017

For Petitioner in
Crl.O.P.No.15524/2017: Mr.P.Dinesh Kumar

For R-1 : Mr.S.Vinoth Kumar,
Government Advocate.

For R-2 : Mr.R.Ganeshkumar

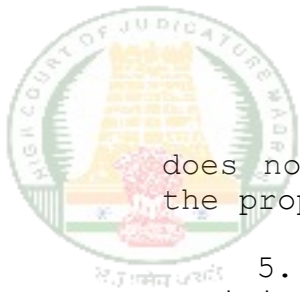
C O M M O N O R D E R

Since the issue involved in both these criminal original petitions are one and the same, they are disposed of by this common order.

2. In Crl.O.P.No.14086 of 2017, the first and third petitioners are sisters, the second petitioner is the husband of the first petitioner, the fourth petitioner is the husband of the third petitioner, fifth petitioner is the brother of the first and third petitioners.

3. In Crl.O.P.No.15524 of 2017, the petitioners are the Company Director and employees. This petition has been filed to quash the final report in C.C.No.103 of 2017 on the file of the learned Judicial Magistrate, Maduranthakam filed against the petitioners for the offences under Sections 420, 120 (B), 465, 468, 471, 419 r/w Section 34 of the Indian Penal Code.

4. The crux of the charges against the petitioners in Crl.O.P.No.14086 of 2017 is that the petitioners, by virtue of five sale deeds, on 26.09.2011 sold an extent of 9.95 acres of land to the third party. According to the de-facto complainant, out of the above extent, 3 acres and 18 cents



does not belong to the petitioners. However, they have sold the property claiming to be the owners to third party.

5. Mr.R.Srinivas, learned counsel appearing for the petitioners in Crl.O.P.No.15524 of 2017, submitted that the entire charge sheet taken on face value, would not constitute any offence charged against the accused and the entire issue relates to civil dispute. It is the contention that the petitioners are the land owners, holding vast extent of lands. They claimed title through one Mr.K.R.Veeraraghavan, who executed a Will dated 05.06.1984 and his wife Mrs.Thirupurammal, who executed a Will on 03.02.1997. It is his contention that the de facto complainant's father D.Muthusamy Muthaliar had purchased the property from one Mr.Venkatasamy Reddiar and there were civil suits pending between Mr.Venkatasamy Reddiar and Mr.K.R.Veeraraghavan right from the year 1935.

6. Further, it is his contention that when the properties have been sold claiming to be their own property, the said act would never attract the offence under Sections 420, 465, 468, and 471 of I.P.C. Absolutely, there is no material available on record. The entire prosecution indicate that the petitioners 1 to 5 bona fide sold the property believing to be their own property. Therefore, the question of creating false documents to attract the offence under Section 465 of I.P.C. would not be attracted and it is his further contention that there is no civil suit pending in this regard. Despite the Revenue Divisional Officer has referred the parties to go for civil suit, the documents have not been assigned so far.

7. The learned counsel appearing for the petitioners in Crl.O.P.No.15524 of 2017 are only the purchasers. There is no whisper whatsoever made in the entire prosecution as to any conspiracy or any nexus between the alleged Will and purchase. It is the contention that the final report before the trial Court has been filed despite the order of stay granted by this Court. Hence, it is submitted that the entire prosecution has to be quashed.

8. The learned counsel appearing for the de facto complainant would submit that the so-called Will relied upon by the petitioners 1 to 5 in Crl.O.P.No.14086 of 2017 itself is created by them and the so-called executrix never executed the Will in this regard. There are materials collected by the Investigation Officer, particularly, the statement of the scribe available on record to prove the same. Further, it is submitted that whether the offence is proved or not cannot be gone into at this stage. Hence, he prays for dismissal of the same.

9. The learned Government Advocate (Crl. Side) submitted that the prosecution has unearthed materials and prima facie materials are also available on record. At this stage, this



Court cannot make a roving enquiry to test the veracity of the evidence and statement. Hence, prays for dismissal.

10. This Court has perused the entire materials available on record. The crux of the prosecution mainly projected as if the petitioners 1 to 5 in Crl.O.P.No.14086 of 2017 have sold an extent of 3.18 acres of land to the petitioners in Crl.O.P.No.15524 of 2017 and therefore, committed various offences. If the offence charged against the petitioners is only with regard to the above, then the contentions of the learned counsel for the petitioners is well founded. The law is well settled in this regard that mere execution of a sale deed by claiming the property being sold was the executant's property, would not amount to commission of offences under Sections 467 and 471 of IPC, even if title to property did not vest in the executant and this act will not amount to making false documents and therefore, no offence could be made out.

11. If the prosecution charge is restricted to the above as indicated, then the prosecution has to necessarily fails, but when there are materials available on record, the Court can very look into the materials and frame necessary charges based on the available materials. One of the submission as pointed out by the learned counsel for the respondents is particularly with regard to scribe to indicate that the very Will, which is relied upon by the petitioners in Crl.O.P.No.14086 of 2017 is said to have been created. Once the scribe has given a statement as to the veracity of the Will, there appears to be prima facie in the case of the prosecution, which can be decided only at the time of trial and this Court, at this point of time, this Court assumes the role of quashing the case on the materials that are placed before this Court. All the issues could be decided only at the time of trial and this Court, sitting under 482 Cr.P.C., cannot invoke its inherent jurisdiction to quash the case, as a prima facie case has been made out by the prosecution.

12. As far as the purchaser is concerned, it is not the case of the prosecution that there was any nexus between the creation of the Will or hatched conspiracy that had happened in the year 1984 and 1997 at the time of Will itself. Therefore, proceeding against the purchaser, who was not even in there, when the Will is alleged to have been forged, would be nothing but a futile exercise. Mere purchase of the property by them will not make as any offence. Accordingly, this Court is of the view that making the purchaser as accused and asking them to go through the rigours of trial would not be in the interest of justice and, therefore, the charge sheet against the purchasers is liable to be quashed.

13. For the reasons aforesaid, this Court is not inclined to accede to the request of the petitioners in Crl.O.P.No.14086/2017 for quashment of the case and,



accordingly, Crl.O.P.No.14086/2017 is dismissed. However, insofar as the prayer to dispense with the personal appearance of the petitioners are concerned, taking into consideration the totality of the circumstances and the materials available before this Court, the appearance of the petitioners before the trial court is dispensed with except for their appearance for the purpose of receiving the copy of the proceedings u/s 207 Cr.P.C., framing of charges, questioning under Section 313 Cr.P.C. and on the day on which judgment is to be pronounced. However, if for any particular reason, the presence of the petitioners are necessary, the trial court, at its wisdom, shall direct his appearance on those days. Further, it is made clear that the counsel appearing for the petitioners shall cross examine the witnesses on the same day, when they are examined in Chief.

14. Insofar as Crl.O.P.No.15524 of 2017, the same is Allowed and the charge sheet in C.C. No.103 of 2017, on the file of learned Judicial Magistrate, Maduranthakam as against the petitioners in Crl. O.P. No.14086/2017 is quashed. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CS)

//True Copy//

Sub Assistant Registrar

sts/ata

To:

1. The Judicial Magistrate,
Madhuranthakam,
Kancheepuram District.
2. The Inspector of Police,
G-4, Cheyyur Police Station,
Kancheepuram District.
3. The Public Prosecutor,
Madras High Court.

+1 cc to Mr.P.Dinesh Kumar., Advocate Sr.NO. 63538
+1 cc to Mr.R.Srinivas, Advocate Sr.NO.63379
+1 cc to Mr.R.Ganeshkumar, Advocate Sr.NO. 63590
+1 cc to Mr.R.Ganeshkumar, Advocate Sr.NO. 63589 (11.01.2022)
Crl.O.P. Nos.14086 & 15524 of 2017

KJ(CO)

A.SK(04.01.2022)