



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.10.2021

CORAM:

THE HON'BLE MRS. JUSTICE V.BHAVANI SUBBAROYAN

Crl.O.P. No.24595 of 2017
and
Crl. M.P.No.14302 of 2017

1. D.Prabhakaran
2. A.Sankari
3. C.Sivakumar

...Petitioners

Vs.

State of Tamil Nadu
rep by its Inspector of Police
Peerkankaranai Police Station
St. Thomas Mount, Perungalathur
Chennai - 600 063

...Respondent

PRAYER: Criminal Original Petition filed under Section 482 Cr.P.C., to call for the records connected with First Information Report in Crime No.1816 of 2017 dated 24.10.2017 on the file of the respondent police and quash the same.

For Petitioners : Mr. S. Ilamvaludhi

For Respondent : Mr. E. Raj Thilak
(Counsel for Govt. of Tamil Nadu)

O R D E R

This Criminal Original petition has been filed under Section 482 Cr.P.C. to call for the records connected with First Information Report in Crime No.1816 of 2017 dated 24.10.2017 on the file of the respondent police and quash the same.

2.The case of the prosecution is that the petitioners being the counsel for one K.Malliga have been lodged complaint by one Kannan before the respondent police for having colluded with their clients in the suit property for which the respondent police have registered the case in Crime No.1816 of 2017 dated 24.10.2017 against the petitioners. The 2nd petitioner is the



wife of the 1st petitioner and the 3rd petitioner is also associated with the 1st petitioner. Hence, the petitioners have approached this Court invoking its jurisdiction under Section 482 Cr.P.C. to call for the records connected with FIR in Crime No.1816 of 2017 dated 24.10.2017 on the file of the respondent police and to quash the same.

3. The learned counsel for the petitioner would submit that the petitioner's client namely K.Malliga owning a land in Sr.No.154/1, of Irumbuliyur village. The said K.Malliga's father, namely, Late Krishnapillai purchased a land from one Narayanasampillai, situated in Sr.No.154/1, registered as Document No.4391 of 1975. The total extent of property is 1.50 cents whereas the said K.Malliga having in possession of 0.26 cents and that too also she has acquired the property only after the death of his father namely Krishnapillai to her mother Chellammal. The Narayanasampillai's legal heirs namely, the grand daughter and grandson namely, Kalavathy and Selvam challenged the sale of the property sold by Narayanasampillai to Krishnapillai in O.S.No.1103 of 1993 on the file of the learned District Munsif, Tambaram. The same was allowed by Judgment and Decree dated 21.1.1997. While the said Malliga's father Krishnapillai was alive, the suit had been filed by the legalheirs of the Narayanapillai. Being aggrieved by the Judgment of the learned District Munsif, Tambaram, an appeal suit has been filed by Krishnapillai in A.S. No.8 of 2001 on the file of the Additional Sub Judge, Chengalpattu. When the aforesaid appeal suit was pending, the said Krishnapillai passed away and the said Chellammal and Malliga were defending the case in A.S.No.8 of 2001 as his legalheirs. The same was allowed by the Additional Sub Judge, Chengalpattu, in A.S.No.8 of 2001 by its Judgment dated 24.03.2005. Except the 0.26 cents the said K.Malliga had not claimed anything at all and the said legal heirs of the said Narayanasamy Pillai, namely, Kalavathy and Selvam approached the Special Tahsildar to give patta to the property situated in Sr.No.154/1 etc. Hence, the petitioners herein being the counsel of their client, have sent notice to the Special Tahsildar on 17.8.2017 narrating all these facts and another notice also sent on 22.8.2017 and they have issued notice to the Secretary to Government, Revenue and Disaster Management Department on 20.9.2017 not to issue patta in the names of Kalavathy, Selvam and Kannan. While the matters stood thus, the petitioners also filed a writ petition in the name of K.Malliga not to issue patta in the name of Kalavathy and Selvam and to dispose of her representation dated 17.8.2017 in W.P.No.26738 of 2017 before this Court. The said writ petition is still pending after issuing notice on the respondents therein. While the aforesaid case was pending, the petitioners



being the counsel for the said Client Malliga contacted the Special Tahsildar requesting to measure the land and verify the records of the land. Thereafter, the Special Tahsildar had issued a notice in Memo No.856 of 2017 dated 13.10.2017 to the said K.Malliga that they are going to measure the land and the document must be produced before the Special Tahsildar. Under such circumstances, a writ petition in W.P.No.27200 of 2017 before this Court has been filed to call for the records connected with the Memo issued in Memo No.856 of 2017 dated 13.10.2017 passed by the 2nd respondent, namely, The Special Tahsildar. This Court has passed its order dated 24.10.2017 with the following observations:

"....

2. The grievance of the petitioner before this Court is that without verifying the documents, the 2nd respondent will conduct the measurement.

3. I do not think that the petitioner's apprehension is appreciable, especially, when the impugned proceedings called upon the petitioner to appear for an enquiry on 26.10.2017 with relevant documents. Therefore, the 2nd respondent will certainly look into the documents filed by the parties and take a decision as to whether the measurement of the land has to be done or not, based on the documents submitted by the respective parties. Therefore, it is evident that the present writ petition is filed with baseless apprehension and consequently, I do not find any ground to entertain this Writ petition at this stage. Accordingly, this Writ petition is disposed of by directing the petitioner to appear before the 2nd respondent on 26.10.2017 with relevant documents as called for in the impugned proceedings. No costs....."

Under such circumstances, the said complaint was lodged by one Kannan before the respondent police and the same was registered in Crime No.1816 of 2017 dated 24.10.2017 against one K.Malliga Ramakrishnan, Ramakrishnan, P. Saravanan, Kalavathy, K. Selvam and Kubenthiran and some others. Based on the complaint given by the said Kannan, the respondent police registered a Criminal case under Sections 147, 447, 506(ii). Though the names of the petitioners were not mentioned in the accused columns, but there names have been mentioned in the body of the F.I.R. as the clients of the petitioners have colluded with the petitioners who are advocates of the aforesaid clients.

4. The learned counsel for the petitioners would further submit that the petitioners being the counsel for the said



Malliga, they have defended for their clients and they have not at all entered into the property belonged to their clients. When there is no specific allegations against these petitioners namely lawyers, it is mockery to the judiciary in filing an FIR merely by a statement given by the complainant. Further, the petitioners being the lawyers, they have advised their client to approach the Revenue Authorities as contemplated under the Act or Rule and they have issued notice to the Special Tahsildar and to the Government under the instruction of their client namely K. Malliga and that does not mean that they have threatened the said Kalavathy, Selvam and Kannan. All along, the said Kalavathy, Selvam has been fighting for their right impleading the said K. Malliga as a defendant/respondent simultaneously, the petitioners' one K. Malliga also filed suit and Writ Petition against the said Kalavathy and Selvam. All of a sudden, the said Kannan entered into the scenario to create confusion in this regard without knowing the real facts of the issues. Based on the complaint given by the said Kannan, the respondent police has registered the case in Crime No.1816 of 2017 is an abuse of process of law and hence the Crime No.1816 of 2017 is liable to be quashed.

5. The learned Government Advocate (Crl. Side) appearing for the respondent would submit that the name of the petitioners were being mentioned in the complaint made by the complainant as they have colluded with their clients in the issue of the said property. Hence, they are also liable for the said offences. Further, the investigation is going on for the said alleged offences committed by the petitioners herein and the respondent police is yet to investigate as to whether the petitioners are involved in the aforesaid offences or not.

6. Heard, the learned counsel for the petitioner and the learned Government Advocate (Crl. Side) for the respondent as well as perused the material available on records.

7. On a perusal of the records, it is an admitted fact that in the original suit in O.S.No.1103 of 1993, the District Munsif Court, Tambaram has passed a Judgment in favour of the defacto complainant but, in the Appeal in A.S. No.8 of 2001, the learned Additional Sub-Judge, Chengalpattu has passed a Judgment in favour of one Mallika. In the meanwhile, the petitioners being advocates of one Mallika had sent a legal notice to the authorities concerned as per the order in Writ petitions of this Court. Further, the petitioners are said to have gone to the said land and to have put up a Board and hut in the said land threatening the complainant herein. The petitioners seems to have failed to explain the entire facts of the case before the respondent. Hence, the petitioners hereby are directed to



appear before the respondent and produce all relevant documents regarding the role of the petitioners in the said issue. However, whether the petitioners have gone into the land in question and indulged in such activities are to be decided only at the time of the Trial. At this juncture, this Court is not inclined to interfere with the evidence, which may be let in by the investigation officer with regard to violation, trespass and unauthorized invasion into the said property as stated in the complaint made by the complainant.

8. Having considered the facts and circumstances of the case, this Court is of the view that the contentions put forward by the learned counsel appearing on behalf of the petitioners are purely factual in nature and this Court cannot venture into conducting a mini investigation into the matter and it therefore does not fall within the ambit of its jurisdiction under Section 482 of Cr.P.C. Any finding on facts will also have a bearing on the investigation conducted by the respondent Police.

9. In the facts and circumstances of the case, this Court is not inclined to interfere with the investigation conducted by the respondent Police at this stage.

10. In the result, this Criminal Original Petition is dismissed and the respondent Police is directed to proceed further with the investigation in accordance with law and complete the investigation and file a final report or a closure report, as the case may be, within a period of three months from the date of receipt of a copy of this order. Consequently, connected miscellaneous petition is closed if any.

Sd/-
Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

Lbm

To:

1. The Inspector of Police
Peerkankaranai Police Station
St. Thomas Mount, Perungalathur
Chennai - 600 063



2. The Public Prosecutor,
High Court of Madras, Chennai.

+1CC to Mr.S.Ilamvaludhi, Advocate, Sr.No.53691

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and
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SSD (CO)
K.RK. (17.11.2021)