



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated 17.11.2021

CORAM:

THE HONOURABLE MR.JUSTICE N. SATHISH KUMAR

CrI. O.P. No. 16456 of 2017 and
CrI.M.P.No.10127 of 2017

1.Natarajaboopathy @ R.G.Natraj
S/o. Rajagounder

2.M.S.Palanivel,
S/o. Sabapathy Gounder

... Petitioners/ A-1 & 2

Versus

1. The State rep. by,
Sub-Inspector of Police,
District Crime Branch,
(Anti Land Grabbing Special Cell)
Namakkal.

... Respondent 1 / Complainant

2.P.Ramachandran,

S/o. Palaniappa Gounder ...Respondents 2 / Defacto Complainant

PRAYER : Criminal Original Petition was filed under Section 482 of Cr.P.C. to call for the entire records and quash the F.I.R. registered in F.I.R:7/2017 on the file of the 1st respondent Police registered against the petitioners.

For Petitioners : Mr.Shanmuga Sundharam S.C

For Respondents : Mr.S.Vinoth Kumar
Govt. Advocate (CrI. Side)for R1

: Mr.G.Arulmurugan for R2

ORDER

(This case has been heard through video conference)

This Criminal Original Petition has been filed to quash the F.I.R. No.7/2017 registered for the offence under Section 420,406,120B of I.P.C., and Section 82A of the Registration Act on the file of 1st respondent.

2. The entire allegation in the F.I.R. indicates that the petitioners and 2nd respondent have jointly purchased the



property. When the property remained joint, the 2nd respondent transferred his undivided half share in favour of his son by way of settlement. Similarly, the entire extent of undivided share was also sold to Natraj and Palanivel, thereby it is his contention that the accused has grabbed the property. Hence, F.I.R. has been registered for the offence under Section 420, 406, 120B of I.P.C and 82A of the Registration Act.

3. Heard Mr.S.C.Shanmuga Sundharam, learned counsel appearing for the petitioner and Mr.G.Arulmurugan, learned Counsel appearing for the respondent and perused the records.

4. On perusal of the entire F.I.R., this Court is of the view that the question of committing the offence under Section 420, 406, 120B I.P.C., does not arise. The only grievance is appeared to be with regard to the sale of undivided share. When the transfer of undivided property is not a bar under law, the undivided property also can be sold. Therefore, this court is of the view that merely undivided property sold by showing boundaries, same would not attract offence. Therefore continuing the F.I.R. in this type of nature is nothing, but clear abuse of process of law. It is for the the second respondent to work out his remedy by way of filing partition suit to avoid the same. With the above observation, the F.I.R. registered in Crime No. 7 of 2017 on the file of 1st respondent is quashed. Accordingly, this Criminal Original Petition is allowed. Consequently, connected Criminal Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(CS-VII)

//True Copy//

Sub Assistant Registrar

rpp/psa

To

1. The Inspector of Police,
District Crime Branch, (Anti Land
Grabbing Special Cell), Namakkal.

2. The Public Prosecutor,
High Court, Madras.

+1cc to Mr.G.Arul Murugan, Advocate, S.R.No.59182

+1cc to M/s.S.Mohana Sundararajan, Advocate, S.R.No.59587

CrI. O.P. No. 16456 of 2017

and

CrI.M.P.No.10127 of 2017

BS (CO)

SB(07/12/2021)