



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON : 27.07.2021

DELIVERED ON : 15.09.2021

WEB COPY

CORAM:

THE HONOURABLE MR.JUSTICE **G. ILANGO VAN**

Crl.O.P.(MD)No.18076 of 2018

CRL.M.P.(MD).No. 8016 of 2018

P.S.Jamruth Begum

... Petitioner

Vs.

1. The Inspector of Police,
Pabanasam Police Station,
Thanjavur District.
Crime No.145 of 2018.

... 1st Respondent/ Complainant

2.P.K.Abdul Kadar @ Jan

...2nd Respondent /Defacto
Complainant

(cause title amended as per the order dated 18.03.2019 made in Crl.M.P.(MD).No.2309 of 2019 in Crl.O.P.(MD).No.18076 of 2018)

PRAYER : Criminal Original Petition is filed under Section 482 of Cr.P.C, to call for the records and quash the proceeding of the FIR in Crime No.145 of 2018 on 30.06.2018 on the file of the 1st respondent.

For Petitioner	: Mr.G.Prabhu Rajadurai
For R1	: Mr.R.M.Anbunithi Additional Public Prosecutor
For R2	: Mr.K.S.Durai Pandiyan

O R D E R

This petition has been filed seeking quashment of the First Information Report in Crime No.145 of 2018.

2. The case of the prosecution is that this petitioner has been arrayed as second accused in Crime No.145 of 2018 which was registered on the basis of the complaint given by the second respondent. The alleged offences are Sections 420, 463, 465 and 467 of IPC. The allegation against the petitioner is that the petitioner by colluding with the other accused created a forged document dated 29.11.2017 and the property was sold to the third accused by suppressing the fact that the defacto complainant also have the



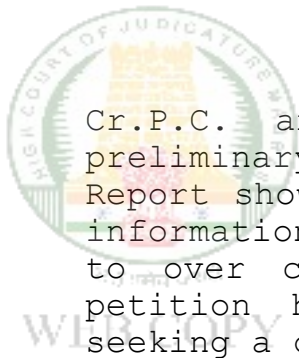
share in the property.

3. Seeking quashment of the First Information Report, this petition has been filed mainly on the ground that the property under dispute originally belongs to one Amina Bevi. She was married to one Abdul Kasim and they have one son by name Kamal Batcha. The defacto complainant is the son of the said Kamal Batcha. After the death of her first husband, Amina Beevi was married to one Sheik Dawood and she died in the year 1991. Through the second husband, she had two daughters namely Zanath Kani, Nurjahan and one son namely Sultan Batcha. The said Sultan Bacha died in the year 1995 leaving behind the second accused, who is the wife of Sultan Bacha. The first accused is the son of the second accused. After the death of Amina Bevi, patta was transferred in the name of Sultan Bacha which was issued by the Tahsildar, Kumbakonam. Against which, an appeal was filed that was also rejected by order dated 18.09.1992. Later, the petitioner's husband and his two sisters filed a partition suit in O.S.No.19 of 1996 which ended in compromise in A.S.No.336 of 2004. By a compromise decree dated 21.01.2014, the petitioner and her son got the property which was sold under the disputed document.

4. Heard the learned counsel appearing for the petitioner and the learned Additional Public Prosecutor appearing for the first respondent and the learned counsel appearing for the second respondent.

5. From the arguments made by the learned counsel appearing for the petitioner as well as the learned Additional Public Prosecutor appearing for the respondents, it is clear that it is purely a civil dispute. By suppressing the defacto complainant's share in the property, the property was sold to the third accused by the first accused, in which, this petitioner appears to have signed as witness. Even though the learned counsel for the petitioner submitted that the documents submitted by the second respondent are forged documents, this Court is not going to consider this argument at this stage, because the competent person is the first accused who executed the documents, the petitioner being a witness to the document, there is no material on record to show that the petitioner has fully known about the defacto complainant's share in the property. It is a settled proposition of law that a witness to a document need not know the contents. So, I am of the considered view that even as per the allegations made in the First Information Report, no offence is attracted against this petitioner.

6. Moreover, reading of the contents of the First Information Report shows that a criminal complaint was given by the defacto complainant before the Pabanassam Police Station. During the course of enquiry, the accused persons did not cooperate. Moreover, it was found that it is a civil dispute and so, the order from the Court is required. To avoid the delay, a petition was filed before the



Cr.P.C. and the same was forwarded without conducting any preliminary enquiry. The averments made in the First Information Report show that the original complaint was not registered as First information Report finding that it is a civil dispute and in order to over come the above conclusion of the Enquiry Officer, the petition has been filed before the concerned Magistrate Court seeking a direction.

7. From the facts and circumstances of the case, before registering the First Information Report, a preliminary enquiry ought to have been conducted by the first respondent. So, without conducting preliminary enquiry, it appears that the case has been registered. Hence, this Court is of the considered view that continuance of the proceedings will clearly be abuse of process of law. Hence, this Criminal Original petition is allowed and the First Information Report registered in Crime No.145 of 2018 against this petitioner alone is quashed. Consequently, connected miscellaneous petition is also closed.

Sd/-

Assistant Registrar (AS)

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/ /2021

Sub Assistant Registrar(CS)

Ssb

To

1. The Inspector of Police,
Pabanasam Police Station,
Thanjavur District.
2. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to M/s.G.PRABHU RAJADURAI, Advocate (SR-29297[F] dated 16/09/2021)

Cr1.O.P.(MD)No.18076 of 2018
15.09.2021

RD(29.09.2021) 3P 4C