



CrI.O.P.Nos..11086 of 2015 & 15354 of 2014
and M.P.Nos.1 & 2 of 2015

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Orders reserved on 23.03.2022	Orders pronounced on 16.06.2022
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THE HONOURABLE MR.JUSTICE G.CHANDRASEKHARAN

CrI.O.P.Nos..11086 of 2015 & 15354 of 2014
and
M.P.Nos.1 & 2 of 2015

CrI.O.P.No.11086 of 2015:-

1.M.P.Ashraf
2.K.Rohini
3.Vinay Gulati
4.Madanlal Gulathi
5.Chethan Gulathi ... Petitioners/Accused 55, 61, 63 to 65

Vs.

1.State by,
The Inspector of Police,
District Crime Branch,
Kancheepuram District.
(Crime No.8 of 2010) ... 1st Respondent/Complainant

2.V.Jayaprakash ... 2nd Respondent/Defacto Complainant

Prayer:- Criminal Original Petition is filed under Section 482 Cr.P.C. to call

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for the records pertaining to the charge sheet in C.C.No.7 of 2014 pending before the Judicial Magistrate-I, Chengalpattu and quash the same insofar as these petitioners/Accused 55, 61 & 63 to 65 are concerned.

For Petitioners : Mr.M.Abdul Razack
For R – 1 : Mr.E.Raj Thilak
Additional Public Prosecutor
For R – 2 : Mr.C.Emalias
for Mr.R.Sasi Kumar

CrI.O.P.No.15354 of 2014:-

1.Narasa Reddiyar @ Venkataperumal Reddiyar
2.Vijayakumari
3.R.Vasanthakumari
4.K.Durgaprasad
5.K.Prathap
6.N.Bharathi
7.B.Sasi Devi ... Petitioners/Accused 2, 12, 13, 69, 70, 8 & 26

Vs.

1.State by,
The Inspector of Police,
District Crime Branch,
Kancheepuram District.
(Crime No.8 of 2010) ... 1st Respondent/Complainant
2.V.Jayaprakash ... 2nd Respondent/Defacto Complainant



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Prayer:- Criminal Original Petition is filed under Section 482 Cr.P.C. to call for the records in C.C.No.7 of 2014 on the file of the learned Judicial Magistrate-II, Chengalpattu, Kancheepuram District and quash the same.

For Petitioners : Mr.C.D.Johnson

For R – 1 : Mr.E.Raj Thilak
Additional Public Prosecutor

For R – 2 : Mr.C.Emalias
for Mr.R.Sasi Kumar

COMMON ORDER

CrI.O.P.No.11086 of 2015 is filed to call for the records pertaining to the charge sheet in C.C.No.7 of 2014 pending before the Judicial Magistrate – I, Chengalpattu and quash the same in so far as these petitioners/accused 55, 61, 63 to 65 are concerned.

2.CrI.O.P.No.15354 of 2014 is filed to call for the records pertaining to the charge sheet in C.C.No.7 of 2014 pending before the Judicial Magistrate – II, Chengalpattu and quash the case against the petitioners who

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are accused Nos.2, 12, 13, 69, 70, 8 and 26 respectively.

3.The gist of the allegations made against accused 1 to 86 in this case is that the properties to an extent of 87.02 acres in Thathankuppam Village, Thondamanallur Panchayat, Cheyyur Taluk, Kancheepuram District belong to the second respondent's grandfather Sanjeevi Reddiyar son of Narayana Reddiyar. There was a property dispute between Sanjeevi Reddiyar on the one side and Adhiyappa Reddiyar and Narasa Reddiyar and 13 others on the other side. Sanjeevi Reddiyar filed a suit in O.S. No.350 of 1961 to establish his rights in the suit property. The suit was decreed followed by confirmation of his rights in the properties by the District Court and then the High Court. After Sanjeevi Reddiyar, his son Venkata Perumal Reddiyar was enjoying the property. Adhiyappa Reddiyar and Narasaa Reddiyar were permitted to cultivate the lands and they were also paying the share of produce to Venkata Perumal Reddiyar. Defacto complainant is the son of Venkata Perumal Reddiyar. He filed a suit in O.S.No.44 of 2001 against his father, brother and sister seeking partition, before the Principal District



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Court, Chengalpattu. The suit was transferred to Fast Track Court, Chengalpattu and is pending in O.S.No.449 of 2004. Adhiyappa reddyar and Narasaa reddyar were impleaded as defendants 4 and 5 in the said suit. Venkata Perumal Reddiyar died on 08.08.2002. When the defacto complainant visited the suit properties to find out the crop cultivated, he found that Adhiyappa reddyar and Narasaa Reddiyar had executed several documents creating encumbrance and alienations over the property. They have executed settlement deed, exchange deed, mortgage deed and sale deed without any right in the property and against law. They sold the property to several persons as detailed in the complaint. Therefore the complaint.

4.On the basis of this complaint, FIR was registered in Crime no.8 of 2010, on the file of District Crime Branch, Kancheepuram, for the offences under Sections 465, 466, 468, 471 and 120 B IPC. The respondent police, after investigating the allegations made in the complaint, filed a final report against the accused for the offences under Sections 468, 471, 420, 406 r/w 34 IPC. The trial Court took cognizance of the offences against the accused



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and issued summons. Challenging the taking cognizance of the offences against the accused, this petition is filed for quashing.

5.The petitioners in CrI.O.P.No.11086 of 2015 are the accused 55, 61, 63, 64 and 65. They are purchasers of the property in dispute. The petitioners in CrI.O.P.No.15354 of 2014 are the accused nos.2, 12, 13, 69, 17, 8 and 26. The first petitioner Narasa Reddiyar @ Venkataperumal Reddiyar is the second accused. The petitioners 2 and 3 are the accused 12 and 13 respectively. They are the daughters of Adhiyappa Reddiyar. Petitioners 3 and 4 and accused 69 and 70. They are the grandsons of Adhiyappa Reddiyar. Sixth petitioner/A8 is the son of Narasa Reddiyar and seventh petitioner/A26 is his wife.

6.The learned counsel for the petitioners in CrI.O.P.No.15354 of 2014 submitted that despite several proceedings between Sanjeevi Reddiyar on



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one part, Adhiyappa Reddiyar and Narasa Reddiyar and others on the other part, the disputed lands were in possession and occupation of Adhiyappa Reddiyar and Narasaa Reddiyar and their possession continued even after the disposal of the second appeal. All the revenue records stood in their name. In fact, recognizing their possession, they were awarded compensation under the land acquisition scheme. The defacto complainant has not filed any documents to show that either Sanjeevi Reddiyar or his son or the defacto complainant were in possession and enjoyment of the property from 1962 to 1973. The land acquisition proceedings were not challenged by Sanjeevi Reddiyar. There was an unregistered release deed dated 09.03.1971, executed by Venkata Perumal Reddiyar. There is a dispute with regard to the date of death of Sanjeevi Reddiyar as to whether it was on 15.01.1972 or 09.09.1973. There is absolutely no material to show that the accused have conspired with each other. It is purely a civil dispute in connection with the claim of right in an immovable property. A civil dispute should not be converted as a criminal proceedings. Offence of making a false document for the purpose of cheating is not legally made out.



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Therefore, the learned counsel for the petitioners in CrI.O.P.No.15354 of 2014 prayed for quashing the proceedings. He relied on the following judgment in support of his submissions in **CrI.A.No.932 of 2021 (Randheer Singh Vs. The State of Uttar Pradesh and others)**. It is observed in this judgment as follows:-

“27. In Mohd. Ibrahim (supra), this Court held as under :-

“19. To constitute an offence under Section 420, there should not only be cheating, but as a consequence of such cheating, the accused should have dishonestly induced the person deceived

(i) to deliver any property to any person, or

(ii) to make, alter or destroy wholly or in part a valuable security (or anything signed or sealed and which is capable of being converted into a valuable security).

20. When a sale deed is executed conveying a property claiming ownership thereto, it may be possible for the purchaser under such sale deed to allege that the vendor has cheated him by making a false representation of ownership and fraudulently induced him to part with the sale consideration. But in this case the complaint is not by the purchaser. On the other hand, the purchaser is made a co-accused.

21. It is not the case of the complainant that any of the



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accused tried to deceive him either by making a false or misleading representation or by any other action or omission, nor is it his case that they offered him any fraudulent or dishonest inducement to deliver any property or to consent to the retention thereof by any person or to intentionally induce him to do or omit to do anything which he would not do or omit if he were not so deceived. Nor did the complainant allege that the first appellant pretended to be the complainant while executing the sale deeds. Therefore, it cannot be said that the first accused by the act of executing sale deeds in favour of the second accused or the second accused by reason of being the purchaser, or the third, fourth and fifth accused, by reason of being the witness, scribe and stamp vendor in regard to the sale deeds, deceived the complainant in any manner.

22. As the ingredients of cheating as stated in Section 415 are not found, it cannot be said that there was an offence punishable under Sections 417, 418, 419 or 420 of the Code.

23. When we say that execution of a sale deed by a person, purporting to convey a property which is not his, as his property, is not making a false document and therefore not forgery, we should not be understood as holding that such an act can never be a criminal offence. If a person sells a property knowing that it does not belong to him, and thereby defrauds the person who purchased the property, the person defrauded, that is, the purchaser, may complain that the vendor committed the fraudulent act of cheating.



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But a third party who is not the purchaser under the deed may not be able to make such complaint.”

7.The learned counsel for the petitioners in CrI.O.P.No.11086 of 2015 submitted that the petitioners are bonafide purchasers. They have no knowledge about the litigations pending between Sanjeevi Reddiyar, Adhiyappa Reddiyar and Narasaa Reddiyar. They purchased the property after verifying the encumbrance certificate and finding that there was no encumbrance in the property. They are unnecessarily roped as an accused in this case. Therefore, he submitted that the petitioners in CrI.O.P.No.11086 of 2015 have to be exonerated from this case by quashing the proceedings against them.

8.In response, the learned counsel for the second respondent submitted that Adhiyappa Reddiyar and Narasa Reddiyar knew very well that they have no right in the property in dispute. Still, they proceeded to execute several documents by way of settlement deed, lease deed, mortgage deeds and sale deeds only with a view to cheat the defacto complainant and



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the rightful owner from enjoying the property. In the process, they created forged documents and used the forged documents for the purpose of cheating. They cannot now claim that there is an unregistered release deed executed by Venkata Perumal Reddiyar and on the basis of the unregistered release deed, they become rightful owners and made alienations. After the partition suit, the order passed in I.A was entered in the encumbrance certificate. Even after the encumbrance was entered in the encumbrance certificate, petitioners in CrI.O.P.No.11086 of 2015 proceeded with purchase of the properties. They purchased the properties after knowing that there is an encumbrance over the property and therefore, they cannot be considered as bonafide purchasers. Thus, the learned counsel for the second respondent prayed for dismissal of this petition. In support of his submissions, he relied on the following judgment in ***Saranya Vs. Bharathi and another*** reported in **2021 (1) SCC 372**. It is observed in this judgment as follows:-

“7.1 In the case of Deepak (supra), to which one of us (Dr. Justice D.Y. Chandrachud) is the author, after considering the other binding decisions of this Court on the point,



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namely, [Amit Kapoor v. Ramesh Chander](#) (2012) 9 SCC 460; [State of Rajasthan v. Fatehkaran Mehdu](#) (2017) 3 SCC 198; and [Chitresh Kumar Chopra v. State \(Government of NCT of Delhi\)](#) (2009) 16 SCC 605, it is observed and held that at the stage of framing of charges, the Court has to consider the material only with a view to find out if there is a ground for “presuming” that the accused had committed the offence. It is observed and held that at that stage, the High Court is required to evaluate the material and documents on record with a view to finding out if the facts emerging therefrom, take at their face value, disclose the existence of all the ingredients constituting the alleged offence or offences. It is further observed and held that at this stage the High Court is not required to appreciate the evidence on record and consider the allegations on merits and to find out on the basis of the evidence recorded the accused chargesheeted or against whom the charge is framed is likely to be convicted or not.”

9.Considered the rival submissions and perused the records.

10.From the facts narrated above and submissions of the learned counsel for the parties, there is no dispute with regard to filing of the suit in O.S.No.350 of 1961 by Sanjeevi Reddiyar, grandfather of the second



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respondent on the file of the District Munsif Court, Chengalpattu for the prayer “to declare the plaintiff's title to the suit properties as owner of the property or having possessory title and consequential permanent injunction restraining the defendants or their men from in any way interfering with the suit properties”. The said suit was decreed in favour of Sanjeevi Reddiyar holding that he was entitled for the properties measuring 87.02 acres. Against the Judgment, Adhiyappa Reddiyar and Narasa Reddiyar filed an appeal in A.S.No.123 of 1963 before the Sub Court, Chengleput and this appeal was dismissed on 26.08.1963. Adhiyappa Reddiyar and Narasa Reddiyar filed second appeal in S.A.No.1786 of 1965 before this Court and that was also dismissed on 16.12.1965. This fact was not disputed by the petitioners in CrI.O.P.No.15354 of 2014. Thus, it is clear that the title holder of the disputed properties in this case was declared as Sanjeevi Reddiyar, the grandfather of the second respondent.

11.It is the case of the second respondent that Adhiyappa Reddiyar and Sanjeevi Reddiyar were permitted to enjoy the property by paying



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Varam to the father of the second respondent. Accordingly, they were in possession of the properties. The second respondent had been taking steps for changing the revenue records in the name of legal heirs of his father. Despite several steps taken, initiation of legal proceedings, Revenue authorities have not come forward to change the revenue records. Taking advantage of the fact that revenue records stands in the name of Adhiyappa Reddiyar and Narasa Reddiyar, they had executed several documents like partition deed and other deeds of alienation including sale deeds.

12.It is not in dispute that several alienations had been made in the form of partition deeds, mortgage deeds, sale deed and settlement deed in the family of Adhiyappa Reddiyar and Narasa Reddiyar in and out of the family members. It is seen from the grounds stated in CrI.O.P.No.15354 of 2014 that the second respondent's father Venkata Perumal Reddiyar received a sum of Rs.7,500/- and handed over the lands at Thathakuppam Village by executing a release deed in favour of the petitioners' father and his brother. This ground shows that the petitioners in CrI.O.P.No.15354 of 2014 claimed



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right, title to the disputed property only on the basis of the alleged release deed said to have been executed by Venkata Perumal Reddiyar on 09.03.1971.

13.The specific case of the second respondent is that Venkata Perumal Reddiyar had no right to execute this release deed for the reason that Sanjeevi Reddiyar had already executed a Will on 03.06.1971, giving only life interest to the second respondent's father Venkata Perumal Reddiyar and absolute right to the second respondent and his siblings. Therefore, Venkata Perumal Reddiyar had no right to execute the alleged settlement deed, dated 09.03.1971. The second contention is that Venkata Perumal Reddiyar had not at all executed the release deed, dated 09.03.1971 and it was forged document. Nobody would release the right in a large extent of property for a meagre sum of Rs.7,500/-.

14.The issue in this case is as to whether the said Venkata Perumal Reddiyar had executed the release deed, dated 09.03.1971 and if at all, he



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had executed the release deed, whether this document is legally admissible document and on the basis of this document, the petitioners in CrI.O.P.No.15354 of 2014 can take claim in the properties and alienate the properties. This vexed question requires oral and documentary evidence to decide the issue objectively. Though there is substance in the submission of the learned counsel for the petitioners in CrI.O.P.No.15354 of 2014 that there is no document produced to show that the second respondent or his family members were enjoying the properties from 1965. In view of the specific stand taken by the second respondent that Adhiyappa Reddiyar and Narasa Reddiyar were permitted to occupy the lands on payment of Varam, this issue is also required to be considered in the light of oral and documentary evidence to be produced. This Court under Section 482 of Cr.P.C cannot undertake this investigation. In some circumstances, a same cause of action may give rise to both civil and criminal action. This is one such case, where a cause of action gives rise to initiation of civil remedy and launching of criminal prosecution.



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15.It is seen from the documents produced that the petitioners in CrI.O.P.No.11086 of 2015 had involved in execution of sale deeds after the status quo order granted by the civil Court was entered in Encumbrance register. It is observed in ***Saranya Vs. Bharathi and another*** reported in ***2021 (1) SCC 372*** that “at the stage of framing of charges, the Court has to consider the material only with a view to find out if there is a ground for “presuming” that the accused had committed the offence. It is observed and held that at that stage, the High Court is required to evaluate the material and documents on record with a view to finding out if the facts emerging therefrom, take at their face value, disclose the existence of all the ingredients constituting the alleged offence or offences. It is further observed and held that at this stage the High Court is not required to appreciate the evidence on record and consider the allegations on merits and to find out on the basis of the evidence recorded the accused charge sheeted or against whom the charge is framed is likely to be convicted or not”.

16.In the case before on hand, *prima facie* case is made out to show



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that the second respondent's grandfather was the owner of the disputed property and as legal heirs, the second respondent and his siblings are entitled for the properties. Those properties are alienated by Adhiyappa Reddiyar and Narasa Reddiyar and their family members only on the basis of the release deed said to have been executed by the second respondent, father of Venkata Perumal Reddiyar. When the said alleged execution of the release deed by Venkata Perumal Reddiyar is challenged, *prima facie*, there is a sufficient ground for framing charges under appropriate sections of Indian Penal Code.

17.In view of the discussions held above, this Court finds that there are sufficient materials to frame charges against the petitioners under Sections 468, 471, 420, 406 r/w 34 IPC and thus, this Court finds that these petitions have no merits and are liable to be dismissed. Accordingly, these petitions are dismissed.

18.In the result, both the Criminal Original Petitions are dismissed.



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Considering the fact that this case was taken cognizance after long long litigation including filing of CrI.R.C.No.80 of 2014, this Court directs the learned trial Judge to dispose the case as expeditiously as possible. Consequently, connected Miscellaneous Petitions are closed.

16.06.2022

Index :Yes/No
Internet:Yes
Speaking Order/Non-speaking Order

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- 1.The Inspector of Police,
District Crime Branch,
Kancheepuram District.
- 2.The Public Prosecutor,
Madras High Court,
Chennai.



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G.CHANDRASEKHARAN,J.

sli/ps

Pre-delivery common order in
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and
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