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IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 14.03.2022

PRONOUNCED ON : 22.03.2022

CORAM

THE HON'BLE MR.JUSTICE G.CHANDRASEKHARAN

CRL.O.P.NOS.18922 & 17646 OF 2015

AND

CRL.M.P.NOS.2229 & 3024 OF 2016

In Crl.O.P.No.18922 of 2015:-

Vasanth Kumar

... Petitioner/Accused No.2

In Crl.O.P.No.17646 of 2015:-

Muniyandi

... Petitioner/Accused No.1

Vs.

In Both the Crl.O.P's:-

1. The State Represented by,  
The Inspector of Police,  
P6, Kodungaiyur Police Station,  
Chennai - 600 118.

2. L.Kalidass

... Respondents/  
Complainant/Defacto Complainant

Prayer:- Criminal Original Petitions are filed under Section 482 of Code of Criminal Procedure, to call for the record relating to the proceedings in C.C.No.704 of 2015, on the file of the X Metropolitan Magistrate Court, Egmore, Chennai - 600 008 and quash the same.

In Crl.O.P.No.18922 of 2015:-

|                 |   |                              |
|-----------------|---|------------------------------|
| For Petitioner  | : | Mr.J.Suresh                  |
| For Respondents | : | Mr.E.Raj Thilak              |
|                 |   | Additional Public Prosecutor |
|                 |   | High Court of Madras.        |



In Crl.O.P.No.17646 of 2015:-

For Petitioner : M/s.AL.Ganthimathi  
For Respondents : Mr.E.Raj Thilak  
Additional Public Prosecutor  
High Court of Madras.

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#### ORDER

Crl.O.P.No.18922 of 2015 and Crl.O.P.No.17646 of 2015 had been filed to call for records in C.C.No.704 of 2015 on the file of the learned X Metropolitan Magistrate, Egmore and to quash the same.

2.Petitioner in Crl.O.P.No.17646 of 2015 is the first accused and petitioner in Crl.O.P.No.18922 of 2015 is second accused. The second respondent is the de-facto complainant. The second respondent gave a complaint dated 08.07.2014 to the Inspector of Police, P6 Kodungaiyur Police station. The allegations made in the complaint are that the property at old door No.1, new door No.1/1, Meenambal salai, Kodungaiyur, Chennai - 600 118 was purchased by him and his brother L.Muniyandi jointly through a registered sale deed dated 19.03.2008. His brother L.Muniyandi settled his half share in this property to him through a registered settlement deed dated 07.01.2009. It is an absolute and irrevocable settlement deed. He also settled some adjacent properties in favour of his brother L.Muniyandi under two settlement deeds. The second respondent availed a loan of Rs.1,50,00,000/- by mortgaging properties settled to him with the Union Bank of India by executing a memorandum of deposit of title deeds dated 10.12.2010. He got patta in his name and, an approved plan from Corporation of Chennai on 19.03.2012 and made construction over the entire property. While so, his brother L.Muniyandi has fraudulently, in order to cheat him and to grab his property, cancelled the settlement by way of a cancellation deed dated 09.04.2014. L.Muniyandi has no right to cancel the settlement deed after five years of its execution. Such a cancellation is opposed to public policy. The sub Registrar of Madhavaram Mr.Vasantha Kumar has also colluded with L.Muniyandi by receiving bribe from him and cancelled the settlement deed. Therefore, this complaint.

3.On the basis of this complaint, First Information Report was registered in Crime No.1412 of 2014 for the offences under Sections 406, 420, 193, 147 and 506 (i) I.P.C. The first respondent after investigation laid a final report for the



offences under Sections 406, 420, 477 r/w. 34 I.P.C. The learned X Metropolitan Magistrate, Egmore, Chennai had taken cognizance in C.C.No.704 of 2015. Challenging the final report in C.C.No.704 of 2015, this quash petition is filed by the petitioners.

4.Learned counsel for the petitioners submitted that the dispute between the parties is purely a civil dispute. There are litigations between them with regard to property and civil suits are pending. The second respondent filed C.S.No.339 of 2014 for a declaration that the cancellation deed dated 09.04.2014 is void and not binding. He also filed another suit C.S.No.539 of 2014 for a declaration that the deed of settlement executed by him on 12.09.2012 in favour of the petitioner L.Muniyandi is null and void. Petitioner's father had executed a cancellation of settlement deed on 26.03.2014 to cancel settlement deed dated 19.05.2005, which was executed in favour of petitioner's son M.Thamilselvan. This was done at the instigation of the second respondent. Thus, it is clear that there are several transactions between the parties for execution of settlement deeds and then execution of documents for its cancellation. It is apparent that the issue involved in this case is purely a civil dispute. A civil dispute is sought to be converted as criminal dispute. Therefore, the learned counsel for the petitioners prayed for quashing the criminal case in C.C.No.704 of 2015.

5.In response, learned counsel for the second respondent submitted that petitioner L.Muniyandi and the second respondent purchased 6028 sqft of land jointly. 50% of the share of the petitioner L.Muniyandi was settled in favour of second respondent. In turn, second respondent settled his half share in another property to petitioner L.Muniyandi. After execution of settlement deed in respect of the property, now in dispute, the second respondent obtained bank loan by mortgaging the property and made additional constructions and developments. Cancellation of the settlement deed nearly six years after the execution is nothing but a fraudulent act, done with an intention to cause wrongful loss to the second respondent by depriving him of his property. Apart from the offences, mentioned in the final report, offence under Section 423 is also made out against the petitioner. There are materials to frame charge against the petitioner/accused and proceed with the trial. Therefore, he prays for dismissal of this petition.

6.Learned Government Advocate appearing for the first respondent had also supported the submission of the learned counsel for the second respondent.



7. Considered the rival submissions and perused the records.

8. From the narration of facts and submissions of the parties, it is clear that petitioner L. Muniyandi had executed a settlement deed on 07.01.2009 in favour of the second respondent of a property which was jointly purchased by them on 19.03.2008. Both of them purchased total extent of 6028 sqft. The total extent of the property is shown in this document as 'A' schedule property. 50% of the total extent, that is, 3014 sqft is shown as 'B' schedule property. Petitioner L. Muniyandi had executed the settlement deed dated 07.01.2009 in favour of the second respondent in respect of the 'B' schedule property. Thus, it is clear from this settlement deed that, second respondent has become the absolute owner of the 'A' schedule property described in the settlement deed to an extent of 6028 sqft with the building there on. Then on 09.04.2014, petitioner L. Muniyandi had executed a cancellation deed to cancel the settlement deed executed by him in favour of the second respondent on 07.01.2009. The execution of this cancellation deed to cancel the settlement deed dated 07.01.2009, according to the learned counsel for the second respondent is a criminal act intended to cheat and deprive the second respondent of his property. It is further submitted by him that there is a specific recital in this settlement deed that the petitioner L. Muniyandi had undertaken not to cancel this settlement deed for whatever the reason. Thus, this settlement is irrevocable settlement and the cancellation of it, is illegal.

9. According to the petitioners, what prompted the petitioner L. Muniyandi to cancel this settlement deed dated 07.01.2009 is that, there was a settlement deed executed by petitioner's father A. Lakshmanan on 19.05.2005 in favour of petitioner's son M. Thamilselvan. At the instigation of the second respondent, father A. Lakshmanan, cancelled the settlement deed in favour of M. Thamilselvan on 26.03.2014. Not only that, second respondent had also cancelled the settlement deed executed by him in favour of petitioner L. Muniyandi. The copies of the complaints filed in C.S.No.339 of 2014 and C.S.No.539 of 2014 show that C.S.No.339 of 2014 was filed by the second respondent against petitioner L. Muniyandi to declare that cancellation of settlement deed dated 07.01.2009 in document No.2111 of 2014 is null and void and for other reliefs of declaration of title over this property and permanent injunction. C.S.No.539 of 2014 was filed for the relief of cancelling the settlement deed executed by second respondent on 12.09.2012 in favour of L. Muniyandi and for declaration that he is the absolute owner of that property and for other reliefs.



10.The perusal of these documents shows that petitioner L.Muniyandi and second respondent had executed settlement deeds in favour of each other and then cancelled it. A settlement deed that is, gift, once accepted cannot be cancelled. We are now concerned only with the cancellation of settlement deed by the petitioner L.Muniyandi. As indicated above, the settlement deed dated 07.01.2009 is an irrevocable settlement deed. After the execution of this settlement deed, second respondent mortgaged this property and obtained loan from the bank. He also made improvements in the building by making additional construction. After five years, the settlement deed dated 07.01.2009 was sought to be cancelled by cancellation deed on 09.04.2014. It is nothing but a criminal act intended to deprive the second respondent of his property. The materials collected in the form of documentary evidence and statement of witnesses clearly establish that petitioner L.Muniyandi had wilfully and illegally cancelled the settlement deed dated 07.01.2009. It is alleged that petitioner/accused Vasantha Kumar without following the procedures, without verifying the documents and for extraneous consideration helped in registering the cancellation deed on 09.04.2014. A prima-facie case is made out for presuming that the petitioners/accused in this case have committed the offences punishable under Sections 420, 423, 477 r/w. 34 I.P.C. Charges are required to be framed and trial has to be conducted to find out guilt or otherwise of the petitioners. Therefore, this Court is not inclined to quash the proceeding in C.C.No.704 of 2015 on the file of the learned X Metropolitan Magistrate, Egmore, Chennai - 600 008 and these petitions are dismissed.

11.In fine, Criminal Original Petitions in CrI.O.P.No.18922 of 2015 and CrI.O.P.No.17646 of 2015 are dismissed. Consequently, connected miscellaneous petitions stand closed.

Sd/-

Assistant Registrar(CS-IX)

//True Copy//

Sub Assistant Registrar

Ep

To

1. The X Metropolitan Magistrate Court,  
Egmore, Chennai - 600 008.
2. -do- through The Chief Metropolitan Magistrate,  
Egmore, Chennai - 600 008.



3. The Inspector of Police,  
P6, Kodungaiyur Police Station,  
Chennai - 600 118.

4. The Public Prosecutor  
High Court of Madras.

+2ccs to M/s.AL.Ganthimathi, Advocate, S.R.No.19829, 19828

+1cc to Mr.Sunder Mohan, Advocate, S.R.No.19749

CRL.O.P.Nos.18922 & 17646 of 2015  
and CrI.M.P.Nos.2229 & 3024 of 2016

MT (CO)  
RLP (12/04/2022)