



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.02.2022

CORAM

THE HON'BLE Mr. JUSTICE G.CHANDRASEKHARAN

Crl.O.P.No.2894 of 2015
and
M.P.No.1 of 2015

J. Vijayakumari

... Petitioner

Vs.

State by:

1.The Inspector of Police,
E-8, Kelambakkam Police Station,
Kancheepuram District.
(Crime No.298 of 2014)

2.Ramadoss

... Respondents

Prayer: Criminal Original Petition filed under Section 482 of Criminal Procedure Code, to call for the records and quash the First Information Report registered by the first respondent in Crime No.298 of 2014.

For Petitioner : Mr. R.C.Paul Kanakaraaj

For Respondents : Mr. R. Murthi, for R1
Government Advocate (Crl.,side)
Mr. C. Dinesh Kumar, for R2

O R D E R

This petition is filed to quash the First Information Report in Crime No.298 of 2014 pending on the file of first respondent.

2. The second respondent/Defacto Complainant gave a complaint against the petitioner and two more persons on 03.04.2014. The allegations made in the complaint are that the second respondent's father Kuppan son of Oman owned 24 cents in S.No.176/8 in Pudupakkam Village, Chengalpattu. The patta number for this property is 208. This property was possessed and enjoyed by him and he died on 20/03/1991. Thereafter, the second respondent and other legal heirs of Kuppan are enjoying this property. When they wanted to effect partition and applied for Encumbrance Certificate to facilitate the partition, it came



to light that a Power of Attorney Deed was executed in favour of the petitioner-Vijayakumari daughter of Angamuthu on 06.03.2006. His father died on 20.03.1991. It is apparent that someone had impersonated his dead father and created Power of Attorney Deed dated 06.03.2006. On the basis of this Power of Attorney Deed, the Power of Attorney had sold properties to one Logarani, Datchanamoorthy, Rishathiban, Venkatasubbu and Jothikumaran. Therefore, this complaint.

2 (i). On the basis of this complaint, FIR was registered under Sections 420, 465, 466 and 468 of IPC in Crime No.298/2014. Challenging this FIR, the present criminal original petition is filed.

3. The learned counsel for the petitioner submitted that the petitioner bonafidely believed that she was getting Power of Attorney Deed from owner of the property in S.No.176/8 namely Kuppan son of Oman. Later, she came to know that someone had impersonated him and duped her into entering Power of Attorney Deed. Therefore, she cancelled or abandoned the general Power of Attorney Deed by another deed of abandonment dated 29.10.2014. Not only that she had also cancelled the sale deed executed by her in pursuance of Power of Attorney Deed in favour of others.

3(i). It is further submitted by the learned counsel for the petitioner that Kuppan is not the owner of the property in S.No.176/8. This property was originally owned by one Audiammal. He produced copies of 'A' Register, Adangal, to show that Audiammal's name is found as a person in possession of 23 cents in S.No.176/8. There is also Xerox copy of Patta Pass Book produced to show that Kuppan did not possess the property in S.No.176/8. Therefore, the learned counsel for the petitioner would submit that the petitioner was misled and on coming to know about the mistake, she had cancelled the Power of Attorney and also sale deeds executed by her and therefore, the learned counsel for the petitioner prayed for quashing the FIR registered against her.

4. The learned counsel for the second respondent submitted that copies of registers and other documents produced by the petitioners have to be verified and these documents had come to light after registration of FIR. It is also submitted that petitioner has also committed similar offences.

5. The learned Government Advocate appearing for first respondent also submits that this matter has to be investigated by the respondent-police to unearth the truth, and prima-facie there are materials available to proceed further with this case.



6. Considered the rival submission and perused the records.

7. As stated above, the allegation against this petitioner is that using a Power of Attorney Deed dated 06.03.2006, which was said to have been executed by a person who was dead on 23.03.1991, she had sold the properties to four persons. It is now brought to the notice of this Court that there are documents available to create a doubt as to who is the owner of S.No.176/8. These documents have to be verified by the Investigation Officer to find out the veracity and genuineness of claim made based on these documents. The fact remains that the petitioner had subsequently cancelled the Power of Attorney Deed dated 06.03.2006 through the deed of abandonment, followed by cancellation of sale deeds executed by her in pursuance of this Power of Attorney Deed.

7(i). The circumstances, under which the Power of Attorney Deed dated 06.03.2006 had come into existence, the person(s) responsible for creation of this Power of Attorney Deed using the name of dead person, all have to be thoroughly investigated by the Investigation Officer in this case.

8. This Court is of the considered view that this is not a fit case for quashing the FIR. In this view of the matter, this petition is dismissed. Consequently, connected miscellaneous petition is closed. The Investigation Officer is directed to enquire the parties, give an opportunity to produce relevant documents, analyse the documents and file a final report before the Court concerned within a period of three months from the date of receipt of a copy of this order.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

AT

To

1.The Inspector of Police,
E-8, Kelambakkam Police Station, Kancheepuram District.

2.The Public Prosecutor, High Court, Madras.

+1cc to Mr.R.G.Paul Kanakaraj, Advocate SR. No.8961

Cr1.O.P.No.2894 of 2015 and
M.P.No.1 of 2015

PMK (CO)
PR (15/03/2022)