



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.02.2022

WEB COPY

CORAM:

THE HON'BLE MR.JUSTICE V. BHARATHIDASAN

Crl.O.P.No. 25389 of 2016

and

Crl.M.P.Nos. 12330 & 12329 of 2016

Ananthalakshmi,
W/o. Ravichandran

... Petitioner

Versus

1. State rep. by
The Inspector of Police,
Pollachi Town Police Station,
Coimbatore.
(Crime No. 489 of 2012
dated 29.12.2012)

2. Madhanagopal,
S/o. Ramakrishnan ... Respondents
(Impleaded as per order in Crl.M.P.No.9276/2021
dated 24/11/2021)

PRAYER : Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to call for the records and quash the prosecution pending in C.C.No. 75 of 2016 on the file of the Judicial Magistrate No.I, Pollachi for offences under Sec. 120(b), 468, 471, 420 I.P.C.

For Petitioner : Mr.C.Arunkumar

For Respondents: Mr.Vinoth Raja,
Govt. Advocate
(Crl. Side) for R1
Mr. V.Raghavachari for R2

ORDER

(This case has been heard through video conference)

This Criminal Original Petition has been filed to quash the criminal proceedings in C.C.No.75 of 2016 on the file of



Judicial Magistrate No.I, Pollachi, for the offences under Sec.120(b), 468, 471, 420 I.P.C.

2. Totally, there are five accused. The petitioner is arrayed as A5. He has been charged with for the offences under Sec.120(b), 468, 471, 420 I.P.C.

3. The case of prosecution in brief is as follows :-

The property to an extent of 9 acres 33 cents comprised in S.F.No.747/2, 748/2 and T.S.No.2296, of Pollachi Town and Village, originally belongs to late Lakshmana Gowder. On 27.01.2004 the said Lakshmana Gowder executed a Settlement deed in respect of the above said property in favour of his grandson Madhanagopal, the defacto complainant herein. Subsequently, mutation was also taken place and patta was also issued in the name of defacto complainant. Thereafter, the said Lakshmana Gowder came into the clutches of his daughter Rajeswari and with her assistance, he has taken steps to cancel the settlement deed. At the instigation of his daughter, Rajeswari, Lakshmana Gowder cancelled the settlement deed, for that purpose, he has forged the patta passbook stands in the name of defacto complainant. Thereafter, using the forged patta as genuine one, produced the same before the Sub-Registrar, Pollachi and induced him to register the cancellation of settlement deed. A4 in this case, who is one of daughters of Lakshmana Gowder, using the forged patta passbook, has filed a suit in O.S.No.755 of 2008, for partition and the same was also decreed. In the above circumstances, all the accused have committed the offence under Sec.120(b), 468, 471, 420 I.P.C. Pending investigation, both Lakshmana Gowder and Rajeswari died. In the said circumstances, final report has been filed against five accused, wherein the petitioner has been implicated as 5th accused and the learned Judicial Magistrate has taken cognizance of offence. Now, to quash the criminal proceedings against A5, the present petition has been filed.

4. Mr. C. Arun Kumar, learned counsel appearing for petitioner would submit that, the allegations are only made against Lakshmana Gowder and Rajeswari and other four accused, absolutely there is no allegation against the petitioner. Since the petitioner is daughter of A4, Renuka Devi, she has been implicated as accused in this case. The learned counsel also referred to statements of witnesses to show that, there is no allegation made against her. According to the petitioner, even though there is a statement of defacto complainant that, after the cancellation of settlement deed, A4, transferred the property in the name of petitioner and others, absolutely, there



is no transfer of property till date and the property stands only in the name of defacto complainant. Hence, the statement is also not correct. No allegation is made against the petitioner and no prima facie case is made out against her. In absence of any such materials, charges against the petitioner cannot be maintained and the same is liable to be quashed.

5. Mr. V.Raghavachari, learned counsel appearing for 2nd respondent/defaco complainant would submit that, originally, the settlement deed has been executed in favour of defaco complainant by his grandfather, who is a original owner, thereafter, at the instigation of other accused, the patta was transferred in his name. Subsequently, all the accused conspired together and in furtherance of conspiracy, they have created a forged patta and using the same, they have taken steps to cancel the settlement deed and using the very forged patta, the suit has been filed by A5 and decree has been obtained. Hence, all the accused committed the offence. So far as transfer of property in favour of petitioner is concerned, learned counsel, on instructions, has fairly submitted that, the property was not transferred in the name of petitioner/A5, and the same stands only in the name of defacto complainant.

6. Heard and considered rival submissions made by learned counsel appearing for both sides and perused the records.

7. The main allegation is that, Lakshmana Gowder, who is owner of property to an extent of 9 acres 33 cents, has executed a settlement deed in favour of defacto complainant. Thereafter, mutation was taken place in his name. Subsequently, all the accused conspired together and in furtherance of conspiracy, they have created a forged patta and using the same, they have cancelled the settlement deed and also filed a suit, thereby obtained a decree against the defacto complainant. So far as this petitioner is concerned, the allegation is that, after the cancellation of settlement deed, A4, daughter of Lakshmana Gowder, has transferred the property in favour of petitioner and she was also part of the conspiracy and committed the offence. But, admittedly, the property was not transferred in the name of A5 and as on today, the property stands in the name of defacto complainant alone. All the other allegation are only against the other accused and absolutely, there is no allegation against the petitioner. Considering the fact that, no prima facie case is made out against the petitioner, allowing the present criminal proceedings against A5 is amounting to only abuse of process of law. Hence, this Court is inclined to quash the criminal proceedings in C.C.No.75 of 2016, on the file of Judicial



Magistrate No.I, Pollachi against A5 alone. The Trial Court is directed to proceed with the case against the other accused. Accordingly, this Criminal Original Petition stands allowed. Consequently, the connected Criminal Miscellaneous Petitions are closed.

SD/-
ASSISTANT REGISTRAR

// TRUE COPY //

SUB ASSISTANT REGISTRAR

rpp
To

1. The Inspector of Police,
Pollachi Town Police Station,
Coimbatore.
2. The Public Prosecutor,
High Court, Madras.

Copy to

The Judicial Magistrate,
No.I, Pollachi.

+1cc to Mr.C.Arun Kumar, Advocate Sr.6577
+1cc to Mr.V.Raghavachari, Advocate Sr.6670

CRL.O.P.No. 25389 of 2016

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srg 17/03/2022