



Crl.O.P.No.3749 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 31.10.2022

CORAM

THE HON'BLE **Dr.JUSTICE G.JAYACHANDRAN**

Crl.O.P.No.3749 of 2019

and

Crl.M.P.Nos.2341 & 5924 of 2019

1.A.K.Raghupathy Naidu

2.Varalakshmi

... Petitioners

Vs.

1.State Rep.by
The Sub Inspector of Police,
District Crime Branch,
Tiruvallur District.

2.M.Kishanlal

... Respondents

Prayer:- Criminal Original Petition has been filed under Section 482 of Cr.P.C., praying to call for the records in F.I.R.No.1 of 2019, on the file of respondent police and quash the same.

For Petitioners : Dr.P.Vasudevan

For R1 : Mr.N.S.Suganthan
Government Advocate (Crl.Side)

For R2 : Mr.T.R.Ravi



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ORDER

This Criminal Original Petition is filed to quash the criminal complaint pending investigation on the file of the 1st respondent police.

2. It is a case where the *de facto* complainant has alleged that 52 cents of land which he has purchased from the Power Agent Vijaya Kumar, has been encroached by these petitioners, who are the owners of neighboring lands. However in a quash petition, it is contended that the very title documents relying by the *de facto* complainant itself found to be invalid documents and in a collateral proceedings initiated by the tenants of the said land. Therefore, a pure civil dispute was given a criminal colour to harass the petitioners. Hence it has to be quashed.

3. The learned counsel for the *de facto* complainant would submit that 1.50 cents of land was purchased by the daughter of the *de facto* complainant on 26.04.2010 from the Power Agent of one Vijayakumar who inherited the property from his mother Saraswathi. Prior to that, the petitioners herein purchased 1.99 acres of land from the



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very same Power Agent on 12.04.2010. Both the *de facto* complainant and the petitioners have promoted the land, which they have purchased. During the course of promoting their land, the petitioners had encroached 52 cents of land which belongs to the *de facto* complainant. The encroached land was divided into 14 plots and sold to 3rd parties by fabricating records. Hence the criminal complaint for land grabbing and fabrication of document has been lodged. Pending investigation, the petitioners have agreed to cancel the illegal sale deed and so far cancelled the sale deeds in respect of 8 plots only.

4. However the learned counsel for the petitioners would submit that the petitioners purchased the property when the principal owner Vijayakumar was alive. After the death of said Vijayakumar on 16.04.2010, the *de facto* complainant's daughter had purchased the property of Vijayakumar from the Power Agent which on the face of the record is non est in law. When the *de facto* complainant has no locus to claim title over the property, criminal complaint has been lodged as if his land has been grabbed by the petitioner, which has no legs to stand.



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5. This Court, on considering the rival submissions, finds that *prima facie* there is a case made out by the *de facto* complainant that the portion of the property, which stands in his name, has been encroached upon by the petitioners herein. The Surveyor has measured the land and he has also given a report in support of the said allegations. Whether the *de facto* complainant has perfect title is a disputed facts and the same to be decided if the original owner of the land in dispute questions the purchase through Power of Attorney after the demise of the principal. The third party, who is the neighboring land owner cannot have no locus to question about the legality of the said transaction. From the report of the Surveyor, it appears that the petitioners have encroached upon 52 cents of land which is over and above 1.98 cents of land.

6. In such circumstances, the facts under investigation cannot be construed as civil dispute, so as to term the registration of the criminal complaint illegal. Hence, ***this Criminal Original Petition to quash the First Information Report is dismissed.*** The respondent police



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is directed to complete the investigation within a period of four (4) months from the date of receipt of a copy of this order and file a final report. Consequently, the connected Criminal Miscellaneous Petitions are also dismissed.

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Index: Yes/No
Speaking Order/Non Speaking Order

To

1.The Sub Inspector of Police,
District Crime Branch,
Tiruvallur District.

2.The Public Prosecutor,
High Court of Madras,
Chennai.



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