



Crl.O.P.No.4036 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.07.2022

CORAM:

THE HON'BLE **MR.JUSTICE N.SATHISH KUMAR**

CRL.O.P.No.4036 of 2022
and Crl.M.P.No.1989 of 2022

1.Sambooranam
2.Rajaram
3.Elumalai
4.Raman
5.M.Kumar

... Petitioners

Vs.

The State represented by
The Inspector of Police
DCB
Thiruvannamalai
(Crime No.6/2017)

Elumalai

... Respondents

PRAYER : Criminal Original Petition filed under Section 482 of Cr.P.C., to call for the records in C.C.No.284 of 2020 pending on the file of the learned Judicial Magistrate-I, Tiruvannamalai and quash the same.

For Petitioners : Mr.R.Vivekananthan



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For Respondents : Mr.E.Raj Thilak
Additional Public Prosecutor for R1

Mr.N.Kumar Rajan for R2

ORDER

This Criminal Original Petition is filed under Section 482 Cr.P.C. to quash the final report filed in C.C.No.284 of 2020 on the file of the learned Judicial Magistrate–I, Thiruvannamalai for the offence punishable under Sections 465, 468, 471, 420, 506(1) I.P.C.

2.The crux of the allegation in the final report is that A1 has originally settled a land in Survey No.23/5 to an extent of 35.5 cents in favour of the defacto complainant on 20.07.1978 and after the settlement, the defacto complainant was in enjoyment of the said property. When the matter stood thus, A1 again settled the same property in favour of A2 and all other accused have colluded with A1 and jointly committed the said offence.

3.Learned counsel for the petitioners would submit that the very



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settlement deed which is a base for registration of F.I.R. indicates that A1 has settled the property with specific boundaries leaving the property which was already settled in favour of the defacto complainant. Now, the contention is that merely because the settlement was made in the year 1978 and since then some extent of land has been acquired by the Government, the defacto complainant has filed the present complaint. He added that there is absolutely no materials available against the petitioners to proceed further in this case.

4.Learned counsel for the 2nd respondent / defacto complainant would submit that having settled the property in the year 1978 to an extent of 35.5 cents in favour of the defacto complainant, the same property was again subjected to encumbrance by way of settlement by A1. Hence, the offence is clearly made out.

5.Learned Additional Public Prosecutor, appearing for the 1st respondent would submit that admittedly the property has been settled leaving behind the property already settled in favour of the defacto



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complainant and there is some dispute over the land acquired by the Government. He further contended that there is any material to show that the false documents were created or fabrication was done by A1.

6.Heard the learned counsel on either side. This Court perused all the materials placed on record.

7.Learned counsel for the petitioners has drawn the attention of this Court to an order passed by the District Registrar on 14.12.2019, wherein after a thorough enquiry, he has also given his findings that there is no impersonation or creation of false documents in this case.

8.Be that as it may, the very settlement deed dated 04.07.2016 which was the base for launching the prosecution itself indicates that out of 71 cents of land, A1 has settled 24.5 cents within specific boundaries. It is also clearly indicated that 24.5 cents is the land apart from the settlement given to the defacto complainant in 1978. The materials collected by the prosecution appears to be civil in dispute and



there is no evidence of falsification of records or forgery or impersonation. Hence, this Court is of the view that continuation of prosecution is nothing but an abuse of the process of law.

9. In this regard, the Hon'ble Apex Court has held in **Mohammed Ibrahim and other Vs. State of Bihar and another reported in [2009] 8 Supreme Court Cases 751** as follows :

17. The allegations in the complaint do not also made out the ingredients of an offence under [section 504](#) of the Penal Code. [Section 504](#) refers to intentional insult with intent to provoke breach of peace. The allegation in the complainant is that when he enquired with accused 1 and 2 about the sale deeds, they asserted that they will obtain possession of land under the sale deeds and he can do whatever he wants. The statement attributed to appellants 1 and 2, it cannot be said to amount to an "insult with intent to provoke breach of peace". The statement attributed to accused, even if it was true, was merely a statement referring to the consequence of execution of the sale deeds by first appellant in favour of the second appellant.



Section 464 IPC deals with making of false and the same is extracted below :

"464. Making a false document.--A person is said to make a false document or false electronic record---

First.--Who dishonestly or fraudulently -

(a) makes, signs, seals or executes a document or part of a document;

(b) makes or transmits any electronic record or part of any electronic record;

(c) affixes any digital signature on any electronic record;

(d) makes any mark denoting the execution of a document or the authenticity of the digital signature, with the intention of causing it to be believed that such document or a part of document, electronic record or digital signature was made, signed, sealed, executed, transmitted or affixed by or by the authority of a person by whom or by whose authority he knows that it was not made, signed, sealed, executed or affixed; or Secondly.--Who, without lawful authority, dishonestly or fraudulently, by cancellation or otherwise, alters a document or an electronic record in any material part thereof, after it has been made, executed or affixed with digital signature either by himself or by any other person, whether such



*person be living or dead at the time of such alternation;
or Thirdly.--Who dishonestly or fraudulently causes any
person to sign, seal, execute or alter a document or an
electronic record or to affix his digital signature on any
electronic record knowing that such person by reason of
unsoundness of mind or intoxication cannot, or that by
reason of deception practiced upon him, he does not know
the contents of the document or electronic record or the
nature of the alteration.*

*[Note: The words 'digital signature' wherever it occurs
were substituted by the words 'electronic signature'
by [Amendment Act 10 of 2009](#)]."*

*The condition precedent for an offence
under [sections 467](#) and [471](#) is forgery. The condition
precedent for forgery is making a false document (or false
electronic record or part thereof). This case does not
relate to any false electronic record. Therefore, the
question is whether the first accused, in executing and
registering the two sale deeds purporting to sell a
property (even if it is assumed that it did not belong to
him), can be said to have made and executed false
documents, in collusion with the other accused.*

*10. An analysis of [section 464](#) of Penal Code shows
that it divides false documents into three categories:*



10.1) The first is where a person dishonestly or fraudulently makes or executes a document with the intention of causing it to be believed that such document was made or executed by some other person, or by the authority of some other person, by whom or by whose authority he knows it was not made or executed.

10.2) The second is where a person dishonestly or fraudulently, by cancellation or otherwise, alters a document in any material part, without lawful authority, after it has been made or executed by either himself or any other person.

10.3) The third is where a person dishonestly or fraudulently causes any person to sign, execute or alter a document knowing that such person could not by reason of (a) unsoundness of mind; or (b) intoxication; or (c) deception practiced upon him, know the contents of the document or the nature of the alteration.

10. In short, a person is said to have made a 'false document', if (i) he made or executed a document claiming to be someone else or authorised by someone else; or (ii) he altered or tampered a document; or (iii) he obtained a document by practicing deception, or from a person



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not in control of his senses.

11.Considering the above judgment, it is clear that none of the allegations and materials unearthed by the prosecution to show that there was falsification of the record or that any cheating has taken place when the person has bonafidely executed the document. Such an act will never fall within an ambit of any of the Sections framed by the prosecution. Hence, this Court finds that allowing the petitioners to face the ordeal of trial is nothing but an abuse of process law.

12.This Criminal Original Petition stands allowed accordingly. Final report filed in C.C.No.284 of 2020 on the file of the learned Judicial Magistrate–I, Thiruvannamalai for the offence punishable under Sections 465, 468, 471, 420, 506(1) I.P.C is hereby quashed. Consequently, the connected miscellaneous petition is closed.

11.07.2022

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N.SATHISH KUMAR, J.

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To

1.The Inspector of Police
DCB
Thiruvannamalai

2.The Public Prosecutor
High Court of Madras
Chennai 600 104

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