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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.02.2022

CORAM:

THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

CRL.O.P.No.2313 of 2018

and

CrI.M.P.No.911 of 2018

1.M.Ravi

2.M.Vimala

... Petitioners

Versus

1.State rep.by

The Sub-Inspector of Police

G-10, Orathy Police Station

Kancheepuram District.

Crime No.84 of 2014.

2.Arul

... Respondents

PRAYER: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to call for the records in Crime No.84 of 2014 pending on the file of the Sub-Inspector of Police, G-10, Orathy Police Station, Kancheepuram District, the respondent herein, quash the same as against the petitioners.

For Petitioners : Mr.N.Kumar Rajan

For Respondent : Mr.R.Kishore Kumar for R1

Government Advocate (CrI.Side)

Mr.R.Kannan

for Ms.A.Rajeswari Karthikeyan

for R2

ORDER

This petition has been filed to call for the records in Crime No.84 of 2014 pending on the file of the Sub-Inspector of Police, G-10, Orathy Police Station, Kancheepuram District, the respondent herein, and quash the same as against the petitioners.



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2. The petitioners who are the accused 1 & 2 in Crime No.84 of 2014 for the offence under Section 447, 465, 467, 471, 474, 294(b), 120(B) and 506(i) of IPC has filed this quash application.

3. The gist of the complaint is that the defacto complainant one Arul is maintaining the property of one Gopinath, who is an Advocate in Orathy Village, in Survey No.35/4 to an extent of 5 acres 73 cents. One Vimala wife of S.Murugesan, from Aanaikundram Village and her son Ravi, who are the petitioners herein, made rival claim on the property and they had entered into the property and placed a public notice board stating that they have filed a civil suit in O.S.No.28 of 2013 before the Sub-Court Madhuranthagam and obtained an injunction order through the Advocates, viz., Thilagaraj and Idhayaraj. Thereafter, on verification, it was found that no such suit is filed and the particulars found in the public notice board are false. Further, the first petitioner/Ravi was bringing henchmen to disturb the peaceful possession of the defacto complainant and also threatened him, and hence, the complaint has been lodged.

4. The contention of the petitioners is that the second petitioner is the daughter of one Ramudu Naicker. One Mahadevan, Saroja, Mohana, Kaveri, Krishnaveni @ Sanjeeviammal and Umarani are her brother and sisters. The second petitioner's father had an ancestral property in Survey No.35/4 to an extent of acres 5.28 cents. The second petitioner's brother and sisters without including the second petitioner and her sister Krishnaveni, had given a Power of Attorney in favour of one Valli in the year 2001, by way of Doc.No.66 of 2001, which was registered in SRO at Acharappakkam. Thereafter, the said Valli had executed a sale deed in favour of her mother Varadhammal. Subsequently, the said Varadhammal filed a suit before the Sub-Court, Maduranthakam in O.S.No.13 of 2003 against Krishnaveni for permanent injunction, which was subsequently dismissed. The second petitioner's sister filed a suit for partition, subsequently, Varadhammal died and the property once again vested with Valli. In the meanwhile, the second petitioner's sister Krishnaveni had executed the sale deed in respect of her undivided share to one Gopinath in the year 2012. Thereafter, the petitioners approached the third and fourth accused namely, Thilagaraj and Idhayaraj, for filing a suit. The said Advocates handed over a plaint copy in O.S.No.28 of 2013 and on verification, it was found that no such suit has been filed. On coming to know that A3 and A4 played fraud on



her, the petitioners lodged a complaint to the Sub-Judge, Maduranthakam on 15.12.2013, same was not entertained. Thereafter, the petitioners lodged a complaint to the President of Advocates Association, Chengalpattu on 09.12.2013. The first petitioner also lodged a complaint to the Secretary Bar Council of Tamil Nadu on 20.01.2014. The first petitioner's complaint was taken in C.No.50 of 2014 against A3 & A4 and demand drafts bearing Nos.389256 & 389255 for Rs.1000/- and Rs.500/- drawn on the State Bank of India in favour of the Bar Council of Tamil Nadu. The Secretary of Bar Council of Tamil Nadu on 03.07.2014 had acknowledged the receipt of the complaint. Thereafter, the petitioner lodged a complaint to the Sub-Inspector of Police and CSR No.98 of 2015 was assigned, but no action has been taken.

5. The petitioners in support of their contention produced the copy of the settlement deed executed by one Chellammagaru to Angammal sons in Doc.No.313 of 1958 dated 21.02.1958; a copy of the legal heir certificate of Late.Ramudu Naidu on 28.04.2015; Partition deed executed between one S.Rajamanickam and S.R.Mahadevan, sons of Angammal vide Doc.No.864 of 1984 dated 30.06.1984; the Power of Attorney executed in Doc.No.66 of 2001 dated 20.12.2001, wherein the name of the second petitioner and her sister have been let out. Now, the second petitioner filed a suit in O.S.No.50 of 2019 dated 02.01.2019. In view of the same, the petitioners praying for quashing of the First Information Report.

6. Mr.Kannan for Mrs.Rajeswari Karthikeyan, the learned counsel for the second respondent/defacto complainant submitted that he received the copy of the petition and typed set of papers recently. He admits that one Gopinath, who is an Advocate, has purchased the subject property from one Valli after verifying of all the documents and legal opinion. Now, the second petitioner claiming to be the legal heir of Late Ramudu Naidu put a public notice board in the property using forged documents, claiming that they filed a suit in O.S.No.28 of 2013 and obtained injunction with the help of A3 and A4, who are Advocates. Further, the accused Thilagaraj and Idhayaraj are very much available, but the respondent Police had so far not taken any action against them. The statement of Idhayaraj has been recorded, wherein he sought to exclude Thilagaraj, but nothing more. Hence, he strongly opposed the contention of the petitioners.

7. The learned Government Advocate (Crl.Side) submitted that in this case, after registration of the First Information Report, the respondent Police immediately took steps and on



investigation found that the notice board was installed without any order of this Court and subsequently, the same was removed. Then, the petitioners were summoned for enquiry and the petitioners and two other accused approached this Court and obtained anticipatory bail viz., petitioners herein /A1 & A2 in CrI.O.P.No.4481 of 2014 on 28.02.2014 and A3 & A4 in CrI.O.P.No.5660 of 2014 on 10.03.2014. The petitioners were summoned to appear on 08.05.2014. The said Idhayaraj alone appeared and gave statement and admitted that he is an Advocate and the first petitioner approached him for partition of the ancestral property of his mother. Then, he requested the petitioners to produce all the documents. Thereafter, the first petitioner produced those documents and he prepared a plaint after signing the same, he handed over to him. Thereafter, the petitioners did not come back.

8. He further submitted that in this case, 164 statement of Gopinath was recorded by the District Munsif-cum-Judicial Magistrate, Uthiramerur, on 02.05.2014 and he had narrated the offence and involvement of A3 & A4 in this case. He fairly submitted that Idhayaraj and Thilagaraj are yet to be examined and the statements of Idhayaraj, appears to exclude the said Thilagaraj, which is not accepted and only after a detailed investigation in this case, their involvement would be find. Further with regard to the Court's seal and Court's particulars in the vakalat and documents there is no explanation or reason given, which can be found only after a detailed investigation. He further submitted that as regards the complaint with the Bar Council of Tamil Nadu & Puducherry against A3 & A4, on 02.02.2022 vide ROC.No.197/2022, it is seen that no case is pending against the Advocates Mr.K.Thilagaraj (323/2000) and Mr.K.Idhayaraj (Ms.526/2005).

9. Admittedly, the Additional Government Pleader-cum-Additional Public Prosecutor earlier on 09.02.2022 confirmed that on verification of the records in the Maduranthakam Sub-Court, that O.S.No.28 of 2013 pertains to the suit filed by one Senthamarai as against one Alamelu, which was contested by both parties and after full trial, the same was disposed of.

10. In view of the same, the suit in O.S.No.28 of 2013, which was alleged to be filed by the second petitioner with Court's seal with date, is a forged one and a detailed investigation is required. Further the complaint against the Advocates before the Bar Council of Tamil Nadu to be further proceeded and also the documents produced by the petitioners and the defacto complainant which requires detail investigation. The



Inspector of Police, Acharapakkam Circle, is directed to take up the investigation and complete the same within a period of two months.

11. In view of the same, this Court is not inclined to entertain the petition. Accordingly, this Criminal Original Petition is dismissed. Consequently connected Miscellaneous Petition is closed.

SD/-
ASSISTANT REGISTRAR

// TRUE COPY //

SUB ASSISTANT REGISTRAR

dna
To

1. The Sub-Inspector of Police,
G-10, Orathy Police Station,
Kancheepuram District.
Crime No.84 of 2014.
- 2.The Public Prosecutor,
High Court, Madras.
- 3.The Inspector of Police,
Acharapakkam Circle.
- 4.The Secretary,
Bar Council of Tamil Nadu & Puducherry.

+1cc to Mr.N.Kumar Rajan, Advocate Sr.8865
+1cc to M/s.Rajeswari Karthikeyan, Advocate Sr.8897

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