

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.04.2022

CORAM:

THE HON'BLE MR.JUSTICE SATHI KUMAR SUKUMARA KURUP

Crl.O.P.Nos.12730 & 14131 of 2019
and
Crl.M.P.Nos.6576 & 6849 of 2019

1.Sathiyamoorthy
2.Manikkavasagam ... Petitioners in Crl.O.P.No.12730/2019

S.Ambika ... Petitioner in Crl.O.P.No.14131/2019

Vs.

1.The State Rep.by
Inspector of Police
Annandanapatty Police Station
Crime No.252 of 2019
Salem City
Salem District.

2.Sobana ... Respondents in both Crl.O.Ps.

PRAYER in Crl.O.P.No.12730 of 2019: Criminal Original Petition had been filed under Section 482 of Cr.P.C, praying to call for the records relating to the case in Crime No.252 of 2019 dated 02.05.2019 pending investigation on the file of the Annadanapatty Police Station, Salem and to quash the same in respect to the Petitioners.

PRAYER in Crl.O.P.No.14131 of 2019: Criminal Original Petition had been filed under Section 482 of Cr.P.C, praying to call for the records relating to the FIR No.252 of 2019 dated 02.05.2019 on the file of the first Respondent and quash the same only in so far it relates to the Petitioner/first Accused.

For Petitioners in
Crl.O.P.No.12730/2019 : No Appearance

For Petitioner in
Crl.O.P.No.14131/2019 : Mr.K.Selvaraj

For Respondents in
both Crl.O.P.Nos. : Mr.R.Vinothraja for R1
Government Advocate (Crl.Side)
: No Appearance for R2

COMMON ORDER

Crl.O.P.No.12730 of 2019 has been filed to call for the records relating to the case in Crime No.252 of 2019 dated 02.05.2019 pending investigation on the file of the Annadanapatty Police Station, Salem and to quash the same in respect of the Petitioners.

2. Crl.O.P.No.14131 of 2019 has been filed to call for the records relating to the FIR No.252 of 2019 dated 02.05.2019 on the file of the first Respondent and quash the same only in so far it relates to the Petitioner/first Accused.

3. The learned Counsel for the Petitioner in Crl.O.P.No.14131 of 2019 submitted his arguments. As per the submission of the learned Counsel for the Petitioner, the Defacto complainant herein, S.Shobana with the help of her muscle men, trespassed into the house of the Petitioner and took away documents and preferred a complaint against the Petitioner.

4. It is the further contention of the learned Counsel for the Petitioner that already a Domestic Violence petition was filed against her husband, who died subsequently. Subsequent to the death of the husband of the Petitioner, the Defacto complainant and her relatives threatened the Petitioner to withdraw the case. The Civil case filed by her was enclosed in Crl.O.P.No.14131 of 2019 in Page Nos.1, 12 and 20 of the typed set of papers.

5. The learned Counsel for the Petitioner invited the attention of this Court to the case registered against the Petitioner in Annadanapatty Police Station, Salem City, Salem District, in Crime No.252 of 2019, wherein, the Petitioner has been arrayed as first Accused. It is the contention of the Petitioner that the registration of the case against the Petitioner by the Annadanapatty Police Station is only to cause harassment to her, which is an abuse of process of law. Therefore, the Petitioner seeking to quash the First Information Report in Crime No.252 of 2019, which was registered on the complaint of S.Shobana, who is the daughter of Somasundaram @ Sundaram.

6. By way of reply, the learned Government Advocate (Crl.Side) vehemently objects to quash the First Information Report stating that the connected Criminal Original Petition is also filed in Crl.O.P.No.12730 of 2019 wherein, the other Accused Nos.2 & 3 viz., Sathiyamoorthy and Manikkavasagam filed Crl.O.P.No.12730 of 2019. Both the petitions may be taken up for dismissal as they are related to the same Crime No.252 of 2019 on the file of the Inspector of Police, Annadanapatty Police Station, Salem District.

7. It is the case of the Defacto complainant that the Petitioner in Crl.O.P.No.14131 of 2019 was employed in the Mill of Somasundaram @ Sundaram. Subsequently, developed illicit relationship with Somasundaram @ Sundaram and she filed a petition to harass Somasundaram @ Sundaram and the same was amicably settled on payment of huge amount.

8. The learned Government Advocate (Crl.Side) invited the attention of this Court to the additional typed set of papers filed in Crl.O.P.No.12730 of 2019, with regard to the forged Will created by the Petitioner in Crl.O.P.No.14131 of 2019 as though it was executed by the deceased Somasundaram @ Sundaram. The learned Government Advocate (Crl.Side) also invited the attention of this Court to the death certificate, copy of the legal heir certificate which were available in the additional typed set of papers and the General Power of Attorney executed by the Petitioner S.Ambika in Crl.O.P.No.14131 of 2019 in favour of one K.Velusamy, who claims to be a Law Graduate, whose Mobile Number and Aadhar Card are furnished in the additional typed set of papers. The learned Government Advocate (Crl.Side) further invited the attention of this Court to the sale deed executed by the General Power of Attorney of the Petitioner herein, S.Ambika in favour of one R.Prabhu, which is available under Page No.45 of the typed set of papers.

9. Similarly, sale deed executed by the General Power Agent of the Petitioner in Crl.O.P.No.14131 of 2019 in favour of K.Kumar is available in the additional typed set of papers. Therefore, as per the submission of the learned Government Advocate (Crl.Side), the Petitioner/S.Ambika is not at all, a legal heir of the deceased Somasundaram @ Sundaram. While so, claiming relationship with the said Somasundaram @ Sundaram, she had created documents, thereby causing loss of valuable lands to the legal heir of the deceased Somasundaram @ Sundaram, which culminated in registration of the case in Crime No.252 of 2019 on the file of the Annadanapatty Police Station, Salem District.

10. The learned Government Advocate (Crl.Side) also stated that the Petitioners in Crl.O.P.No.12730 of 2019 were

arrayed as Accused Nos.2 & 3 in this FIR, for having misused the documents executed by the Petitioner in Crl.O.P.No.14131 of 2019, S.Ambika. Therefore, there has been sufficient cause of action on the Accused in FIR, whose names had been mentioned by the second Respondent /Defacto complainant in the complaint.

11. It is the contention of the learned Government Advocate (Crl.Side) that the Petitioner/S.Ambika had received a sum of Rs.15 lakhs. Subsequently, she had created a Will alleged to have been executed by the deceased Somasundaram @ Sundaram. The second Respondent /Defacto complainant is none other than the daughter of the deceased Somasundaram @ Sundaram. Therefore, there are sufficient materials incriminating the Accused, viz., S.Ambika, Sathiyamoorthy and Manikkavasagam.

12. On perusal of the additional typed set of papers furnished by the second Respondent /Defacto complainant, it is found that a person by name Velusamy, who claims to be a Law Graduate having Aadhar Card No.8573 2104 1221 and Mobile No.9003713489, is the Power agent of the Petitioner, S.Ambika. He has registered the document No.4/2018 on the file of the SRO, Kattuputhur, Trichy District as the General Power of Attorney of S.Ambika. Hence, the Investigating Officer is directed to investigate the role played by the said Velusamy, who claims to be a Law Graduate, in the Power deed and in the Will.

13. In the light of the above submissions of the learned Government Advocate (Crl.Side), this is not a case to be taken lightly. The overt acts alleged against the Petitioners are to be investigated by the Investigating Officer.

14. It is the submission of the learned Counsel for the Petitioner, S.Ambika in Crl.O.P.No.14131 of 2019 that a Civil Case was withdrawn on the force executed by the Defacto complainant. The learned Counsel for the Petitioner further submitted that still there are Civil cases pending. In the light of the Civil cases, seeking to quash the First Information Report is found unacceptable.

15. Considering the materials placed by the learned Government Advocate (Crl.Side) and as per the guidelines issued in the reported ruling of the Hon'ble Supreme Court in the judgment of State of Haryana and Ors. Vs. Ch.Bhajan Lal and Ors, reported in 1992 Supp (1) SCC 335: 1992 SCC (Cri) 426, this is not a fit case to quash the FIR.

16. The learned Counsel for the Petitioners, in Crl.O.P.No.12730 of 2019 namely, Sathiyamoorthy and Manikkavasagam, whose names also found in the complaint as well as the First Information Report, is not present.

17. In view of the above, both the Criminal Original Petitions are dismissed as having no merits. The Investigating Officer is directed to proceed with the investigation and lay the final report before the Court of the learned Judicial Magistrate, Salem, within a reasonable period of three months from the date of receipt of a copy this order. Consequently, connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar (CS-II)

//True Copy//

Sub Assistant Registrar

dna

To

- 1.The Judicial Magistrate,
Salem.
- 2.Do-Through,
The Chief Judicial Magistrate,
Salem.
- 3.The Inspector of Police
Annandanapatty Police Station
Crime No.252 of 2019
Salem City
Salem District.
- 4.The Public Prosecutor
High Court, Madras.

Cr1.O.P.Nos.12730 & 14131 of 2019
and
Cr1.M.P.Nos.6576 & 6849 of 2019

GSM(CO)
UMA(14/07/2022)