



Crl.O.P.No. 21310 of 2014

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.11.2022

CORAM

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

Crl.O.P.No.21310 of 2014

1.Manjula, F/35 years,
D/o.Varadarasu,
New No.3, Old No.5,
Mariamman Koil Street,
Kakkayanthope,
Ariyankuppam,
Puducherry 605 007.

2.Dhanalakshmi, F/55 years,
D/o.Varadarasu,
D-93, Palla Street,
Murungapakkam,
Puducherry 605 007

3.Gowri, F/40 years,
D/o.Varadarasu,
New No.3, Old NO.5,
Mariamman Koil Street,
Kakkayanthope, Ariyankuppam,
Puducherry 605 007

... Petitioners

Vs.

1.State, Rep. by the
Inspector of Police,
Ariyankuppam Police Station,



Crl.O.P.No. 21310 of 2014

WEB COPY

Puducherry.

2.Armugam,
S/o.Kothanadapany,
No.7, Mariamman Koil Street,
Kakkayanthope, Ariyankuppam,
Puducherry 605 007.
Power agent of Tanapaquiam
W/o.Rajamanickam

... Respondents

PRAYER: This Criminal Original Petition is filed under Section 482 of Cr.P.C., to call for the records relating to the Crime No.108 of 2014 on the file of the Respondent Police, Puducherry and quash the same as far as the Petitioners are concerned.

For Petitioner : Mr.I.Abrar Md Abdullah

For Respondents : Mr.V.Balamurugane
Public Prosecutor (Puducherry)

Mr.P.Gunaraj (for R2)

ORDER

The Criminal Original Petition has been filed to call for the records relating to Crime No.108 of 2014 on the file of the Respondent Police, Puducherry and quash the same as far as the Petitioners are concerned.



Crl.O.P.No. 21310 of 2014

WEB COPY

2.This is in conjunction with and in continuation of earlier proceedings made on 23.11.2022, which reads as follows:

“The contention of the petitioners is that the petitioners are arrayed as accused in Crime No.108 of 2014 for offence under Sections 177, 197, 198, 465, 466, 468 and 474 r/w 34 of I.P.C. The complainant K.Arumugam, S/o.Kaliamoorthy lodged a complaint stating that his Principal one Thanapakkiam and her mother Selvambal had filed a suit in O.S.No.899 of 1999 on the file of the II Additional District Munsif, Pondicherry for the relief of declaration that they are the legal heirs of the deceased Rajamanickam. The petitioners herein projected themselves as daughters of Mangalakshmi @ Lakshmi, W/o.Rajamanickam and also legal heirs of Rajamanickam. Further, on 06.05.2008, the Funeral Certificate has been obtained in the name of Mangalakshmi @ Lakshmi, W/o.Rajamanickam, which is a forged burial certificate. Hence, a complaint has been lodged.

2. The further contention of the petitioners is that on the same allegations, a complaint was lodged by the said Arumugam and a case in Crime No.197 of 2010 registered for offence under



WEB COPY



Crl.O.P.No. 21310 of 2014

Sections 177 and 468 I.P.C., against one Saravanan, S/o.Tirumalai and Dhanalakshmi, second petitioner herein. In the complaint, the dispute and civil suit pending between both the families have been narrated. The said Thanapakkiam and Selvambal filed a civil Suit in O.S.No.899 of 1999 against the petitioners herein and Mangalakshmi @ Lakshmi. The suit is for declaration of the legal heirs and the legal heir certificate obtained by the petitioners on the strength of Mangalakshmi @ Lakshmi, W/o.Rajamanickam is forged one and the suit was decreed in favour of the plaintiffs therein. Thereafter, the petitioners herein filed an appeal in A.S.No.43 of 2002, which was dismissed against the petitioners, against which, they have now filed second appeal in S.A.No.137 of 2010, which is pending on the file of this Court and there is an order of stay of further proceedings in O.S.No.899 of 1999. On coming to know about the stay obtained by the petitioners in S.A.No.137 of 2010, the second respondent/de-facto complainant lodged the second complaint with the same allegations and the case in Crime No.108 of 2014 has been filed. Further, in support of his contention, the learned counsel for the petitioners submitted that in view of T.T.Antony's case, for the same cause of action, there cannot be two F.I.R. Hence, prayed for quashing of the F.I.R. He further submitted that according to his instructions, the case in Crime No.197 of 2010 was closed as "further action



Crl.O.P.No. 21310 of 2014

dropped". Thereafter, protest petition filed by the de-facto complainant. Again further investigation conducted and the case has been closed.

3. Learned counsel for the second respondent submitted that both the F.I.R. are not one and the same, though the crux of the issue is with regard to creation of forged Funeral Certificate of Mangalakshmi @ Lakshmi. He further submitted that the said Mangalakshmi @ Lakshmi till her death was receiving widow pension as wife of one Varadarasu. Further, the Voter's list and Widow Pension Certificate issued by the Tahsildar would clearly prove that Mangalakshmi @ Lakshmi is wife of Varadarasu. To usurp the property of Thanapakkiam and Selvambal, the petitioners have created forged documents. On the strength of the Second Appeal filed before this Court, the petitioners are claiming right over the property. He further submitted that though in the earlier complaint in Crime No.197 of 2010, the forgery of burial certificate has been narrated i.e. prior to obtaining legal heir certificate, now it is found that using the forged burial certificate, legal heirship certificate has been obtained. Hence the second complaint necessitated.

4. Learned Public Prosecutor (Pondicherry) appearing for the first respondent Police submitted that Crime No.197 of 2010 is



CrI.O.P.No. 21310 of 2014

not much different from Crime No.108 of 2014. The issue in both the complaints are with regard to obtaining forged Funeral Certificate dated 06.05.2008 in the name of Mangalakshmi @ Lakshmi, projected her as W/o.Rajamanickam. As regards case in Crime No.197 of 2010, he has to get instructions to inform the Court about the present position. With regard to Crime No.108 of 2014, the investigation is completed, soon final report to be filed before the learned Judicial Magistrate-III, Pondicherry.”

3.Today, Learned Public Prosecutor (Puducherry) submitted that Cr.No.197 of 2010 is culminated into charge sheet and the same has taken on file as CC.No.328 of 2015 before the Judicial Magistrate No.III, Puducherry and the case is posted for framing for charges on 28.11.2022 before the Court below.

4.In view of the above said submission, the grievance of the Defacto Complainant can be addressed by filing appropriate Petition before the learned Judicial Magistrate III, Puducherry. Thereafter, the learned Judicial Magistrate III, Puducherry to consider the said Petition on merits and in accordance with law.



Crl.O.P.No. 21310 of 2014

WEB COPY

5. Accordingly, Crime No.108 of 2014 on the file of the Respondent Police, Puducherry is hereby quashed and this Criminal Original Petition is allowed.

24.11.2022

Internet : Yes/No

Index : Yes/No

Speaking Order/Non-Speaking order

sai

Note: Issue order copy by 08.12.2022.

To

1. The learned Judicial Magistrate III,
Puducherry.

2. The Public Prosecutor,
High Court, Madras.



WEB COPY



Crl.O.P.No. 21310 of 2014

M.NIRMAL KUMAR, J.

sai

Crl.O.P.No.21310 of 2014

24.11.2022