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Crl.OP.No.17864 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.11.2022

CORAM:

THE HONOURABLE Dr.JUSTICE G.JAYACHANDRAN

Crl.OP.No.17864 of 2019
and Crl.MP.No.8997 of 2019

R.Padmanabhan

... Petitioner

Vs.

1.The Inspector of Police,
City Crime Branch,
Coimbatore City,
Coimbatore.

2.Rajeswari

... Respondents

Prayer: Criminal Original Petition is filed under Section 482 of Cr.P.C., to call for the records relating to Crime No.60 of 2017 dated 12.08.2017 on the file of the City Crime Branch, Coimbatore City and quash the same.

For Petitioner : Mr.R.Bharath Kumar

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

For R2 : Mr.M.Velmurugan



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ORDER

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This petition is filed to quash the F.I.R. dated 12.08.2017, registered in Crime No.60 of 2017 on the file of the City Crime Branch, Coimbatore City.

2.The impugned F.I.R. dated 12.08.2017 is registered in Crime No.60 of 2017 for the offence alleged said to have committed by the petitioner, which presumably attracts Sections 406 and 420 of I.P.C.

3.According to the learned counsel for the petitioner, the present complaint is not only frivolous and vexatious complaint. In brief, the petitioner submitted that originally the property jointly stood in the name of Muthu Gounder and Bochi Gounder, who left behind his son Arumugha Gounder, who inherited the property. After his death, the five legal heirs of Arumugha Gounder executed the power of attorney in favour of the petitioner herein in the year 2005. As far as remaining half share, held by Muthu Gounder, a power of attorney was executed in Document No.884 of 2005 in favour of the petitioner. Being the power agent for the entire property under two registered power of attorney deeds, the petitioner herein sold the property to one



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A.Sigamani on 08.02.2007, duly registered as Document No.947 of 2007 on the file of the Sub Registrar Office, Gandhipuram, Coimbatore. While the facts being so, one Ranganathan, S/o.Arumugha Gounder filed a suit for partition in O.S. No.792 of 2011, suppressing the execution of power of attorney deeds and after Trial, the suit got dismissed on 31.07.2017. All the legal heirs of Arumugha Gounder have filed another Suit in O.S. No.613 of 2017 for injunction not to alienate the property and the said suit was also dismissed on 08.11.2021. Pending injunction suit, the impugned complaint dated 12.08.2017 was given by Wife of Subramanian, who is the son of Arumugha Gounder, alleging that the property, in which her husband was also one of the sharers, been fraudulently sold by the petitioner and thereby, had committed breach of trust and cheating.

4.Learned counsel appearing for the petitioner would submit that it is a pure civil transaction, which has already been decided by the competent Civil Court and having lost the suits, the present complaint been tried by the defacto complainant/second respondent only to harass the petitioner herein.



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5.Learned counsel appearing for the defacto complainant submitted that no doubt, the husband of the defacto complainant alleged to be a party to the power of attorney document, but, on the date of execution of the power of attorney and till date, the said Subramanian, husband of the defacto complainant and son of Arumugha Gounder is mentally ill and not competent to enter into any contract and therefore, the said power of attorney deed itself is vitiated for want of valid contract. Since there is no proper rendition of accounts by the petitioner and the land has been grabbed by creating document without proper consent, it is a matter for investigation.

6.This Court finds that the power of attorney deeds were executed in the year 2005 and acted upon on 08.02.2007 and therefore, the same are to be subjected to criminal investigation based on the complaint dated 12.08.2017. The complaint was being filed on 12.08.2017, after dismissal of the suit in O.S. No.792 of 2011 dated 31.10.2017. No further appeal been filed by the parties.

7.In such circumstances, having lost the suit for partition, which is a comprehensive suit and the same has determined the rights of the



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respective parties, in which the husband of the defacto complainant is also one of the parties to the proceedings, the second respondent has filed the above complaint. Ignoring the transactions regarding the rights of the parties in the property, a criminal complaint was filed and investigation cannot be proceeded. A pure civil dispute been given a criminal colour judiciously to harrass the petitioner herein, who became functus officio, after execution of the sale deed on 08.02.2007 in favour of A.Sigamani and he has acted on behalf of the five legal heirs as agent for the title holder of the property. His action been challenged by a person, who is no where connected to the property except carrying the status of Wife of Subramanian, one of the sons of said Arumugha Gounder and has lost the partition suit initiated in the year 2011 and therefore, the second respondent cannot agitate the issue giving a criminal colour. This Court finds merit in the petition. Accordingly, this petition stands allowed and the F.I.R. dated 12.08.2017, registered in Crime No.60 of 2017 on the file of the City Crime Branch, Coimbatore City is hereby quashed. Consequently, connected miscellaneous petition is closed.

08.11.2022

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Dr.G.JAYACHANDRAN,J.

vga

To

- 1.The Inspector of Police,
City Crime Branch,
Coimbatore City,
Coimbatore.
- 2.The Public Prosecutor,
High Court, Madras.

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