



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 17.02.2022
CORAM
THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

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Crl.O.P.(MD)No.902 of 2022
and
Crl.M.P. (MD) .No.643 of 2022

1.Seeni Selvaraj

2.S.Lakshmana Kumar

... Petitioners/Accused No. 1&2

Vs.

1.The State of Tamil Nadu,
Represented by the Inspector of Police,
Thattaparai North Police Station,
Thoothukudi District.
(Crime No.112 of 2021)

...Respondent No.1

2.Thiruvaranga Selvi,
Village Administrative Officer,
North Silukkanpatti Village,
Thoothukudi District.

...Respondent No.2/
Defacto Complainant

Prayer: Criminal Original Petition is filed under Section 482 Cr.P.C., to call for the records relating to the altered FIR in Crime No.112 of 2021 on the file of the first respondent police and quash the same as illegal.

For Petitioners : Mr.M.Mahaboob Athiff
For R-1 : Mr.R.M.Anbunithi
Additional Public Prosecutor
(Criminal Side)

ORDER

This Criminal Original Petition has been filed challenging the F.I.R in Crime No.112 of 2021 on the file of the first respondent police and quash the same as illegal.

2. The case of the prosecution is that on 24.11.2021, a complaint has been laid by the second respondent, the Village Administrative Officer of North Silukkanpatti Village, alleging that on 28.12.2020, an online application had been preferred by the first petitioner, seeking to include his name as joint pattadar in respect of the petition mentioned in the lands in S.No.52/3, Muthusamyapuram Village, Thoothukudi District to be added as a joint pattadar in Patta No.195. It is further alleged that in support of the said



application, the first petitioner had submitted a partition deed in registered Document No.1367/1974 and the death certificate of the first petitioner's maternal uncle Late.Rengasamy Nayickar. It is also alleged that a web copy of an order of this Court in W.P.(MD). No.12299 of 2020 dated 14.12.2020 had been submitted, wherein, it was stated that the Court had directed the inclusion of the first petitioner in the patta within four weeks. It is further alleged that acting on the same, the name of the first petitioner had been included as the joint pattadar by proceedings in T.R 2020/0103/28/241790 dated 31.12.2020. Thereafter, the first petitioner had settled the said property in favour of his son, the second petitioner herein, vide registered Document No.3492/2021 and had preferred an online application for mutation of patta in his name. Thereafter, it is alleged that the patta was mutated in favour of the second petitioner.

3. It is the further case of the prosecution that when the Tahsildar Justin Chelladurai and the Zonal Deputy Tahsildar Selvaboopathi had visited the Madurai Bench of this Court, they have found that the order alleged to have been produced by the first petitioner in support of his claim is a fabricated document and therefore, a complaint came to be preferred by the second respondent on 24.11.2021 and in furtherance thereof, the impugned F.I.R in Crime No.112 of 2021 had been registered on 24.11.2021 alleging commission of offence punishable under Section 465, 466, 467, 468, 471 and 420 of IPC.

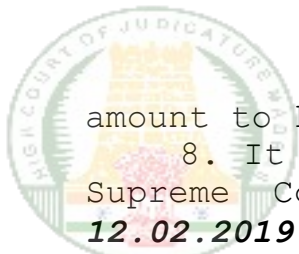
4. The learned Counsel appearing for the petitioners would submit that the petitioners are innocent and they have not committed any offence as alleged by the prosecution. Without any base, the first respondent police registered a case in Crime No.112 of 2021 for the offences under Sections 465, 466, 467, 468, 471 and 420 of IPC as against the petitioners.

5. The learned Additional Public Prosecutor would submit that the investigation is almost completed and the respondent police are about to file the final report before the concerned court.

6. Heard both sides and perused the materials available on record.

7. That apart, on perusal of documents, it revealed that there are serious allegations as against the petitioners, since they fabricated the order of the Hon'ble Division Bench of this Court and applied for cancellation of patta. On verification of the fabrication order produced by the petitioner in W.P.(MD).No.12299 of 2020 dated 14.12.2020 from the Registry, it is seen that no such Writ Petition has been filed and no such order has been passed on 14.12.2020 by the Hon'ble Division Bench of this Court. Further, it is in the stage of F.I.R and under preliminary investigation.

<https://hcservices.courtsofmadras.org/hcservices/> In the circumstances, the F.I.R cannot be quashed and it would



amount to kill the baby on its own.

8. It is also relevant to rely upon the judgment of the Hon'ble Supreme Court of India passed in **Crl.A.No.255 of 2019** dated **12.02.2019 - Sau. Kamal Shivaji Pokarnekhar vs. the State of Maharashtra & ors.**, as follows:-

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"4. The only point that arises for our consideration in this case is whether the High Court was right in setting aside the order by which process was issued. It is settled law that the Magistrate, at the stage of taking cognizance and summoning, is required to apply his judicial mind only with a view to taking cognizance of the offence, or in other words, to find out whether a prima facie case has been made out for summoning the accused persons. The learned Magistrate is not required to evaluate the merits of the material or evidence in support of the complaint, because the Magistrate must not undertake the exercise to find out whether the materials would lead to a conviction or not.

5. Quashing the criminal proceedings is called for only in a case where the complaint does not disclose any offence, or is frivolous, vexatious, or oppressive. If the allegations set out in the complaint do not constitute the offence of which cognizance has been taken by the Magistrate, it is open to the High Court to quash the same. It is not necessary that a meticulous analysis of the case should be done before the Trial to find out whether the case would end in conviction or acquittal. If it appears on a reading of the complaint and consideration of the allegations therein, in the light of the statement made on oath that the ingredients of the offence are disclosed, there would be no justification for the High Court to interfere.

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9. Having heard the learned Senior Counsel and examined the material on record, we are of the considered view that the High Court ought not to have set aside the order passed by the Trial Court issuing summons to the Respondents. A perusal of the complaint discloses that prima facie, offences that are alleged against the



Respondents. The correctness or otherwise of the said allegations has to be decided only in the Trial. At the initial stage of issuance of process it is not open to the Courts to stifle the proceedings by entering into the merits of the contentions made on behalf of the accused. Criminal complaints cannot be quashed only on the ground that the allegations made therein appear to be of a civil nature. If the ingredients of the offence alleged against the accused are prima facie made out in the complaint, the criminal proceeding shall not be interdicted."

9. While hearing this case, the counsel whose name appeared in the fabrication order passed in W.P.(MD).No.12299 of 2020, Mr.G.V.Vairam Santhosh also appeared before this Court and submitted that he never filed any Writ Petition on behalf of the first petitioner herein before this Court in the year 2020. He appeared on behalf of the first respondent in the year 2016 and utilising the said circumstances, the present order has been fabricated. In fact, now he became Additional Government Pleader and after coming to knowledge about this order, he instructed the revenue officials, namely, the Tahsildar, Thoothukudi Taluk to verify the order produced by the petitioners herein. Only thereafter, the complaint has been lodged by the Village Administrative Officer and it is pending for investigation.

10. Considering the above, the first respondent is directed to complete the investigation within a period of twelve (12) weeks from the date of receipt of a copy of this order and the Superintendent of Police, Thoothukudi District is directed to monitor the investigation done by the first respondent and ensure that the first respondent is complying with the direction issued by this Court. Further, the first respondent is directed to report about the compliance of the direction issued by this Court from time to time once in a month till the completion of investigation.

11. Accordingly, this Criminal Original Petition is dismissed. Consequently, connected miscellaneous petition stands closed.

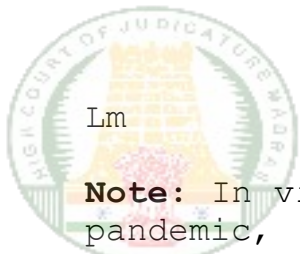
Sd/-

Assistant Registrar (CS-III)

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/ /2022

Sub Assistant Registrar(CS)



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Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

1. The Inspector of Police,
Thattaparai North Police Station,
Thoothukudi District.
2. The Village Administrative Officer,
North Silukkanpatti Village,
Thoothukudi District.
3. The Superintendent of Police,
Thoothukudi District.
4. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

Crl.O.P(MD)No.902 of 2022
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KK(CO)
KB(09.03.2022) 5P 5C