



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 12/01/2022

CORAM:

THE HON'BLE MR JUSTICE G.ILANGO VAN

Crl.O.P. (MD)No.12563 of 2020

and

Crl.MP(MD)No.5710 of 2020

WEB COPY

A.Jakkariah

... Petitioner/A1

Vs.

1.The Inspector of Police,
Thiruppuvanam Police Station,
Sivagangai District.
(Crime No.497 of 2020).

... R1/Complainant

2.Mohammed Bhagurudeen

... R2/De-facto Complainant

Prayer: Criminal Original Petition is filed under Section 482 of the Criminal Procedure Code, to call for the records in connection with the case in Crime No.497 of 2020 on the file of the 1st respondent and quash the same.

For Petitioner : Mrs.M.PADMAVATHY, Advocate

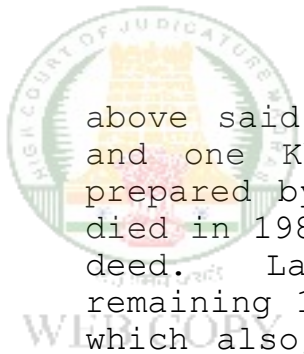
For 1st Respondent : Mr.R.MEENAKSHI SUNDARAM
Additional Public Prosecutor

For 2nd Respondent : Mr.P.DINESH KUMAR, Advocate

O R D E R

This petition has been filed by the petitioner seeking quashment of the case in Crime No.497 of 2020 on the file of the 1st respondent police.

2.This petitioner is facing the charges for the offences under sections 469, 406, 420, 471, 120-B, 506(i) IPC. Reading of the complaint shows that the property under dispute originally belonged to the mother of the de-facto complainant and the de-facto complainant was in aboard and the property was under the management of his maternal uncle namely Sikkandhar Basha and one Sangaiya. He came to India in 2015. On enquiry about the property, which belongs to his mother, they informed him that since the property are under the care and custody of the accused persons, he will continue to manage the same. But during the casual visit to the property, it was informed to him that the property was purchased by Sankaleeswaran. On enquiry, it was revealed that on 18/03/2013, Sikkandhar Basha sold the property measuring about 15 cents to the



above said Sankalleswaran and in that sale deed, this petitioner and one Khadar Meera signed as witnesses and the document was prepared by one M.Chandran. The mother of the de-facto complainant died in 1989 itself. The above said fact was suppressed in the sale deed. Later in 2014, the said Sikkandar Basha died and the remaining 11 cents deemed to have been sold by this petitioner, for which also, he sent a legal notice. On enquiry, he was criminally intimidated. Based upon the above said complaint, the case has been registered.

3.Now seeking quashment of the FIR, this petition came to be filed on the ground that it is purely a civil transaction and even as per the allegation made in the FIR, he signed as witness in the document, so no criminality can be attributed against him.

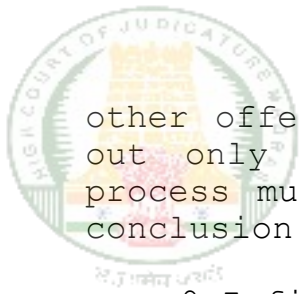
4.The entire CD file has been called for and perused. The de-facto complainant is also filed the intervening petition and he was also heard.

5.It is the basic law that unless a strong case has been made out by the accused persons, the investigation cannot be stalled in the initial stage. Here the allegation is that the petitioner only signed as a witness in the sale deed executed by the deceased Sikkandar Basha. But the allegation is that he is also made an attempt to sell the property. The petitioner, being the own brother of the mother of the de-facto complainant, would have known or ought to have known the ownership of the property. When that is being so, whether there was any conspiracy between the Sikkandar Basha and the petitioner for the purpose of defrauding the de-facto complainant is a matter for thorough investigation. It is not necessary to go into the judgment cited by the 2nd respondent to support his contention that no strong case has been made out. Suffice to say that no other ground has been made by the petitioner, to quash the FIR.

6.The ground that during the course of investigation, no document was produced by the de-facto complainant for the purpose of showing the ownership of the property, cannot be a matter for consideration in this petition.

7.As mentioned earlier, it is a matter for investigation. It is a case of the petitioner that the property does not belong to the de-facto complainant. Similarly, that Chikkandar Basha died in 2014 itself. It does not improved the case of the petitioner. The entrustment of the property was alleged to have been made by the mother of the de-facto complainant. The contention that no offence of 406 and 420 IPC prima facie made out or attracted is also not acceptable.

8.No doubt, the offence of 471 may not be attracted, in view of the judgment of the Hon'ble Supreme Court in the case of Mohammed
<https://hccservices.mys.gov.in/hccservices/> is the celebrated judgment on this topic. But the



other offences mentioned in the FIR whether attracted can be found out only during the course of investigation. The investigation process must be permitted to take as its own course to its logical conclusion.

9.I find absolutely, no merit in this petition and accordingly, this criminal original petition is **dismissed**. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar (Crl)

// True Copy //

/ /2022
Sub Assistant Registrar(CS)

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,
Thiruppuvanam Police Station,
Sivagangai District.
- 2.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

Crl.OP(MD)No.12563 of 2020
Date:12/01/2022

SA (18.02.2022) 3P 3c