



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 18.04.2022

CORAM

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

Crl.O.P(MD)No.18120 of 2021

and

Crl.M.P(MD)Nos.9933 and 9934 of 2021

Karuppaiah

... Petitioner/Accused No.12

Vs.

1.The State represented by
The Inspector of Police,
Anti Land Grabbing Special Wing,
Virudhunagar District. ... 1st Respondent/Complainant

2.R.Gajendra Moorthy ...2nd Respondent/Defacto Complainant

(suo-motu substituted in the place of the second respondent
as per order of this Court dated 15.12.2021 by GRSJ)

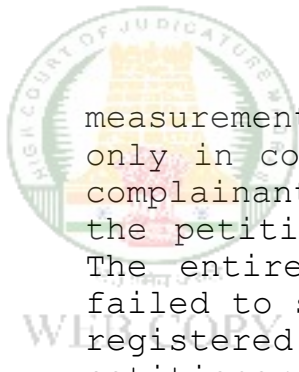
Prayer: Criminal Original Petition is filed under Section 482 Cr.P.C., to call for the records relating to the proceedings in C.C.No.68 of 2021 on the file of the Judicial Magistrate No.II, Virudhunagar and quash the same insofar as the peittioner is concerned.

For Petitioner	:	Mr.T.Antony Arul Raj
For R1	:	Mr.K.Sanjai Gandhi
		Government Advocate (Criminal Side)
For R2	:	Mr.Jeyakumaran

ORDER

This Criminal Original Petition has been filed to quash the proceedings in C.C.No.68 of 2021 on the file of the learned Judicial Magistrate No.II, Virudhunagar insofar as the petitioner is concerned.

2.The allegation set out as against the petitioner is that while registering the rectification deed in document No.4524/2010, dated 15.10.2010, for the third item of the property mentioned as S.No.307, the measurements was wrongly mentioned as hectare 1.26.5 in acres 3.52 instead of hectare 1.26.5 in acres 3.12. The



measurement mentioned in hectare is correct and there is an error only in converting the same into acres. It is done by the defacto complainant, who presented the document for registration. As far as the petitioner is concerned, he is not an author of the document. The entire allegation as against the petitioner is false and he failed to see measurement mentioned by the other accused persons and registered the document. Now the first respondent charged the petitioner for the offences under Sections 120(B), 419, 420, 423, 465, 468, 471 r/w 109 of IPC. As far as the allegations made against the other accused by the defacto complainant is that their vendors do not have title over the properties in Survey No.303/1, 303/2, 304/2, 307, 309/1, 309/2, 310/1A and 310/1B. However without having title over the property, they sold the property as if they belonged to them. The duties of the Sub Registrar clearly contemplates the procedure set out in Rule 55 of Tamil Nadu Registration Rules. It is clear that the Sub Registrar has no jurisdiction to verify the ownership of the property. His duty is to verify the stamp duty which has been properly paid or not. The Sub Registrar cannot act as Civil Court while registering the document. Therefore, the Sub Registrar cannot conduct enquiry for title over the property on behalf of the purchaser. Therefore, the basic ingredients of offences under Sections 465, 468, 471 and 420 of IPC is not at all made out as against the petitioner. The Registering Officer is only expected to reassure himself that the document which is going to be registered is accompanied by supporting documents and he is not expected to evaluate the title or irregularities.

3.In this regard, relied upon the judgment reported in **2011 (1) CWC283** in the case of **V.K.Amalraj vs. Inspector General (Registrations)** in paragraph No.10 as follows:-

'10.It is the main grievance of the petitioner that registering authorities are indiscriminately registering the documents without making proper enquiry with regard to the rights and ownership of the seller. Therefore, Mandamus has to be issued to the respondents to stop all unlawful registration through out the State of Tamil Nadu by considering his representation, dated 09.10.2009. According to the respondents 1 to 3, the Registering Officer is expected to enquire into the document brought before him and he can make enquiry only within the frame of provisions of the Registration Act and the Rules framed thereunder, particularly with reference to Rule 55 relating to enquiry before the registration speaks about what is not the duty of the Registering Officer. Rule 55 is extracted hereunder:



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"55.It forms no part of a registering officer's duty to enquire into the validity of a document brought to him for registration or to attend to any written or verbal protest against the registration of a document based on the ground that the executing party had no right to execute the document; but he is bound to consider objections raised on any of the grounds stated below:-

(a)that the parties appearing or about to appear before him are not the persons they profess to be;

(b)that the document is forged;

(c)that the person appearing as a representative, assign or agent, has no right to appear in that capacity;

(d)that the executing party is not really dead, as alleged by the party applying for registration; or

(e)that the executing party is a minor or an idiot or a lunatic".

11.A close reading of the said Rule would show the registering authority is bound to consider the objection only on the ground which is stated in the said Rule. Rule 55 does not provide enquiry by the Registering Officer with regard to the right and ownership of the seller. Thus, the authorities concerned are bound to act only in accordance with the Act and Rules framed thereunder. The authorities cannot be directed to act contrary to the provisions of the statute. We also find that the writ petition is filed only to settle the family dispute between the petitioner and the respondents 4 and 5. Hence, we do not find any merit in the writ petition''.

4.Further the duty of the Sub Registrar is to register the documents. He has to verify whether the documents are duly stamped and the register charges are duly paid or not. That apart, there is no absolutely piece of material to show that the petitioner conspired with the other accused persons and registered the alleged document in favour of the other accused persons.

5.In view of the above discussions, this Criminal Original Petition is allowed and the proceedings in C.C.No.68 of 2021 on the



file of the learned Judicial Magistrate No.II, Virudhunagar is hereby quashed as against the petitioner. Consequently connected miscellaneous petitions are closed.

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Sd/-

Assistant Registrar (W)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

vsd

To

1.The Judicial Magistrate No.II,
Virudhunagar.

2.The Inspector of Police,
Anti Land Grabbing Special Wing,
Virudhunagar District.

3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

Crl.O.P(MD)No.18120 of 2021

and

Crl.M.P(MD)Nos.9933 and 9934 of 2021

18.04.2022

NSN(CO)

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