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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 28/04/2022

Pronounced on : 09/09/2022

CORAM:

THE HON'BLE MR JUSTICE G.ILANGO VAN

Crl.OP(MD)Nos.19566 and 19619 of 2018
and
Crl.OP(MD)Nos.677 and 686 of 2022
and
Crl.MP(MD)Nos.8884 and 8947 of 2017
and
Crl.MP(MD)Nos.490 and 497 of 2022

(1)Crl.OP(MD)No.19566 of 2018:-

Baraneeshwaran : Petitioner/A5
Vs.

1.The State rep. By
Inspector of Police,
District Crime Branch,
Virudhunagar District.
(Crime No.18 of 2016) : R1/Complainant
2.Kasirajan : R2/De-facto Complainant
3.Rajendran : R3/LW7

Prayer: Criminal Original Petition is filed under Section 482 Cr.P.C., to call for the records in CC No.4 of 2018 on the file of the Judicial Magistrate No.II, Virudhunagar and quash the same so far as the petitioner is concerned.

For Petitioner : Mr.G.Prabhu Rajadurai

For 1st Respondent : Mr.B.Nambi Selvan
Additional Public Prosecutor



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For 2nd Respondent : Mr.N.Mohidden Basha

For 3rd Respondent : Mr.P.Mahendran

(2) Cr1.OP (MD) No.19819 of 2018:-

R.Mariappan : Petitioner/A4

Vs.

1.The State rep. By
Inspector of Police,
District Crime Branch,
Virudhunagar District.
(Crime No.18 of 2016)

: R1/Complainant

2.Kasirajan

: R2/De-facto Complainant

3.Rajendran

: R3/LW7

Prayer: Criminal Original Petition is filed under Section 482 Cr.P.C., to call for the records in CC No.4 of 2018 on the file of the Judicial Magistrate No.II, Virudhunagar and quash the same so far as the petitioner is concerned.

For Petitioner : Mr.K.Sennu Ramachandran

For 1st Respondent : Mr.B.Nambi Selvan
Additional Public Prosecutor

For 2nd Respondent : Mr.N.Mohidden Basha

For 3rd Respondent : Mr.P.Mahendran

(3) Cr1.OP (MD) No.677 of 2022:-

Karuppasamy : Petitioner/A6

Vs.

1.The State rep. By



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Inspector of Police,
District Crime Branch,
Virudhunagar District.
(Crime No.18 of 2016)
2.Kasirajan
3.Rajendran

: R1/Complainant
: R2/De-facto Complainant
: R3/LW7

Prayer: Criminal Original Petition is filed under Section 482 Cr.P.C., to call for the records in CC No.4 of 2018 on the file of the Judicial Magistrate No.II, Virudhunagar and quash the same so far as the petitioner is concerned.

For Petitioner : Mr.G.Mariappan
For 1st Respondent : Mr.B.Nambi Selvan
Additional Public Prosecutor
For 2nd Respondent : Mr.N.Mohidden Basha
For 3rd Respondent : Mr.P.Mahendran

(4)Cr1.OP(MD)No.686 of 2022:-

Ramamoorthy : Petitioner/A5
Vs.

1.The State rep. By
Inspector of Police,
District Crime Branch,
Virudhunagar District.
(Crime No.18 of 2016)
2.Kasirajan
3.Rajendran
: R1/Complainant
: R2/De-facto Complainant
: R3/LW7



Prayer: Criminal Original Petition is filed under Section 482 Cr.P.C., to call for the records in CC No.4 of 2018 on the file of the Judicial Magistrate No.II, Virudhunagar and quash the same so far as the petitioner is concerned.

For Petitioner	: Mr.K.Seenuramachandran
For 1 st Respondent	: Mr.B.Nambi Selvan Additional Public Prosecutor
For 2 nd Respondent	: Mr.N.Mohidden Basha
For 3 rd Respondent	: Mr.P.Mahendran

O R D E R

These criminal original petitions are filed seeking quashment of the case in CC No.4 of 2018 on the file of the Judicial Magistrate No.II, Virudhunagar.

2.The case of the prosecution in brief:-

The de-facto complainant namely Kasirajan fled a complaint stating that during the month of May 2013, he intended to purchase the property from the accused Baraneeshwaran. Towards the same, he paid Rs.10,000/- as advance for the purpose of purchasing the plots. He told that, he plotted out the property, which belongs to one



Ramamurthy. Believing the above said words, on 12/06/2013, he purchased the property from the above said Ramamurthy and Baraneeshwaran for a sum of Rs.4,23,360/-. The property was comprised in survey No.140/2C. Later, it came to know that the property belongs to Pavali village Kumaran Temple. So on that ground, the patta that was granted in favour of the above plots were cancelled by the Revenue Divisional Officer. Knowing fully well that the property belonged to the temple, the above said Ramamurthy and Baraneeswharan plotted the property and sold out to several personal and also abused in filthy language and refused to pay the amount. So on the basis of the above said complaint, the case was registered and after thorough investigation, final report was filed implicating several persons for the offence of cheating, falsification of false records, etc.

3. Seeking quashment of the same, these criminal original petitions have been filed on very many grounds.

4. The final report reads that A6, who was working as Village menial, corrected the revenue records as if patta was granted in favour of the co-accused, as if the order was passed in SRPT No.1880/87, dated 04/04/1987. So by creating the above said false records, sales have been effected in favour of several persons.



5. The case of the 5th accused in brief:-

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In addition to the history, that has been made by the other petitioners with regard to the history of the property, he has the following facts in further:-

Even before the property, that was purchased by the grand father of A1 to A4, SLR entry reads that it was classified as ryotwari land. There is no document on the side of R3 to show that the property belongs to the temple. Before the RDO and DRO, R3 has not filed any document to show that the property belongs to Kumaran temple. But it was stated that proceedings were initiated under the provisions of Minor Inams Abolition and Conversation of Ryotwari) Act and that was notified as Minor Inams land. A memo was filed and R3 was required to produce the documents showing the name of the Inamdar, nature of service Inam and period of Innam and by whom, it was granted and proceedings of the Inam Abolition Tribunal and notifications, if any. But refusal is the reply on the side of the third respondent. The alleged forged document namely SRPT No.18987 dated 04/04/1987 was not recovered during the course of investigation and it was not also scientifically proved that it was forged document and that



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too, it was returned by this petitioner. Since the civil court already seized the issue, criminal proceedings should be stalled or quashed.

6.The case of A6, who is the petitioner in Cr1.OP(MD)No.677 of 2022 is that earlier, on the basis of the complaint, enquiry was undertaken by Anti Land Grabbing Cell, Virudhu Nagar and that was closed as civil in nature.

7.The case of the petitioner is that the property under dispute originally situated in pymash No.120 measuring about 3.15 acres which belongs to Kaliyandi Pulavar, Krishna Pulavaur. After the death of the above said persons, the legal heirs namely Appulinga Pulavar and Sreenivasa Pulavar inherited 1.05 acres and the legal heirs of Krishna Pulavar, Chellamuthu Pulavar, Chinnasamy Pulavar, Vellusamy Naicker by a registered sale deed, dated 01/09/1943 purchased 2.10 acres from the legal heirs of above said Krishna Pulavar, 1.50 acres from the legal heirs of Kaliyandi Pulavar. Apart from that, Velusamy Naicker had some other properties in old pymash No.122 measuring about 3.83 acres. So he was enjoying the property in old pymash Nos.120 and 122. Later the old pymash No.122 was reclassified as survey Nos.140/1A & 1B. It was further



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subdivided into 2A, 2B and 2C at Pavali Village and 14/12 and 14 and they were divided into 48 plots and the de-facto complainant purchased the plot No.16 and other persons purchased several plots from the above said persons. On the basis of anonymous petition, enquiry was undertaken by the Tashildar and the report was forwarded to RDO, Aruppukottai, for cancellation of patta as if the property belongs to the temple and classified as Melvarmaniyam; RDO accepted the report and issued orders. That was challenged by revision before DRO. Pending the above said enquiry, a suit in O.S No.41 of 2016 was filed. The petitioners along with his brother namely Ramamuthy partitioned the property, which belongs to the above said Velusamy Naicker and after that divided the same, subdivided the same into 48 plots. The allegation is that A6 made a fraudulent entry in the Adangal and the revenue records is not known to the petitioner and there is no necessity for this petitioner to instigate, A6 to make the fraudulent entries. This is the case.

8.Crl.OP(MD)No.686 of 2019 is filed by A1. According to him, he along with his brother, partitioned the property along with some other properties of one Velusamy Naicker. They plotted the properties into one lot



and subdivided into 48 plots. The above said Velusamy Naicker purchased the property in 1943. After the death of the above said Velusamy Naicker, it devolved upon the father of A2 and thereafter, it was inherited by A2 and his brothers and this petitioner had no knowledge about the fact that the property originally belonged to Velusamy Naicker along with some other properties.

9.The allegation that A6 entered the fraudulent entry in the village records and Adangal as if the property belongs to A1 and A2, on 04/04/1987 is not all true; The above said document was not filed along with the final report. There is no proof to show that the property originally belonged to the temple. Since, the title to the property issue is involved, the same cannot be decided by the revenue authorities. A5 filed a suit in O.S No.41 of 2016 on the file of the Sub Court, Virudhu Nagar for declaration and consequential injunction and the suit is also pending. The fraudulent entry that was alleged made by A6 was not known to the petitioner. On that ground, he seeks quashment of the same. So far as the case of A4, who is the the petitioner in CrI.OP(MD)No.19619 of 2018 is concerned the property is situated in old pymash No.120.



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10.The learned counsel appearing for the petitioner/A4 in **Cr1.OP(MD)No.19619 of 2018** has made elaborate submission with regard to the history of the property as well as the various Acts, which have been enacted by the Tamil Nadu Government dealing with the properties belongs to estates, temples, Inamdhars, etc.

11.No doubt that the above said issue is a larger one, which is involved in O.S No.41 of 2016. The effect of Inam Abolition Act will be taken into consideration by the court, after going through the trial process. So any finding, if recorded by this court, while exercising the jurisdiction under section 482 Cr.P.C will have no effect or some-time, it may also mislead. So this court is not making any interference in this larger issue. This court confines with the limited grievance that is attached or alleged in the issue.

12.Similarly, the learned counsel appearing for the petitioner in Cr1.OP(MD)No.677 of 2022 has also made elaborate submission with regard to the factual aspect. The centre point of argument is that he made repeated request to the Revenue as well as temple authorities to show the source of the property or the order by which the above said



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property has been treated as Inam property, who are the Inamdars and what happened during the Inam Abolition Act, etc. So his argument is entirely supplementary argument that has been advanced by the learned counsel appearing for the petitioner in CrI.OP(MD)No.19619 of 2018.

13.No doubt that as regards stand today, he was not given any information with regard to the history of the property and other revenue proceedings. For the same reasons stated above, his argument is also answered to the effect that the above said issue can be taken into consideration in the above said civil suit. No discussion or finding is required on the submission that has been made by the learned counsel appearing for the petitioners in CrI.OP(MD)Nos.19619 of 2018 and 686 of 2022.

14.After hearing the learned counsel appearing on either side, I made a open question to the learned counsel appearing for the parties to the effect that there is serious allegation against the 6th accused to the effect that he manipulated the revenue records namely adangal. Whether any finding can be recorded by this court to the effect that no criminality is involved in this issue. For which, Mr.K.Seenuramachandran, who is appearing for the 6th



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accused would submit that it is highly improbable that a person who is holding the post of Menial or the Village Assistant is capable of making such manipulation in revenue records. But I am afraid that such sort of argument can be heard and decided in favour of the petitioners. Whether there was any larger conspiracy involved cannot be a matter for consideration in these petitions. Since materials have been collected and final report has also been filed, the trial has to be undertaken to its logical end.

15.For all the reasons stated above, all the petitions are liable to be dismissed.

16.In the result, all the Criminal Original Petitions are **dismissed**. Consequently connected Miscellaneous Petitions are closed.

09.09.2022

Internet:Yes/No
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To,

- 1.The Judicial Magistrate No.II,
Virudhunagar.
- 2.The Inspector of Police,
District Crime Branch,
Virudhunagar District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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G. ILANGO VAN, J. ,

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Cr1.OP(MD) Nos.19566 and 19619 of 2018
and
Cr1.OP(MD) Nos.677 and 686 of 2022

09/09/2022