



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 29/04/2022

CORAM:

THE HON'BLE MR JUSTICE G.ILANGO VAN

Crl.OP(MD)No.18088 of 2019

and

Crl.MP(MD)Nos.10662 and 10663 of 2019

Rajeswaran : Petitioner/A1
Vs.

1.The Inspector of Police,
District Crime Branch,
(Land Grabbing Wing),
Theni District,
Theni.
(Crime No.27 of 2013) : R1/Complainant

2.Thiru.K.D.Navarogi Ponmani Palammal
: R2/De-facto Complainant

Prayer: Criminal Original Petition has been filed under section 482 of the Criminal Procedure Code, to call for the records in CC No.2 of 2015 on the file of the Judicial Magistrate, (Special Court), Land Grabbing Cases, Theni) in Crime No.27 of 2013 on the file of the Inspector of Police, District Crime Branch, (Land Grabbing Wing), Theni District, Theni and quash the same.

For Petitioner : Mr.R.Suriyanarayanan

For 1st Respondent : Mr.SS.Madhavan
Government Advocate
(Criminal side)

For 2nd Respondent : Mr.J.Selvin Rajesh
for M/s.Dictum Law Firm

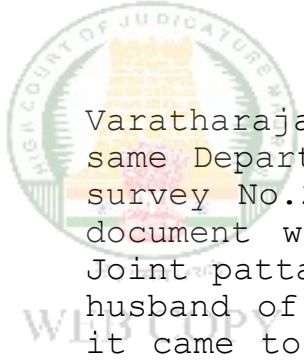
O R D E R

This petition has been filed by the petitioner seeking quashment of the case in CC No.2 of 2015 on the file of the Judicial Magistrate (Special Court) Land Grabbing Cases, Theni.

2.The case of the prosecution in brief :-

<https://hcservices.ecourts.gov.in/hcservices/>

The husband of the de-facto complainant was working as Junior Engineer in Tamil Nadu Electricity Board, Periyakulam. He was also engaged in Union activities. In the above said occurrence, one



Varatharajan became a friend and he was also working in the very same Department. They jointly purchased a property on 21/05/1997 in survey No.2370 measuring about 6 acres and 23 cents. The original document was available in the hands of the accused Varatharajan. Joint patta was also in his hands. Later, trouble arose between the husband of the de-facto complainant and Varatharajan. On enquiry, it came to her notice that that property was sold by impersonation and forgery. Later, they have also effected partition deed among themselves. Later, it was sold to one Manokaran and several other persons. When that was questioned, they were criminally intimidated. So based upon the complaint given by the de-facto complainant, a case in Crime No.27 of 2013 was registered for the offences under sections 120-B, 419, 420, 423, 465, 468 and 471 IPC. After completing the formalities of investigation, final report was filed and it was taken cognizance in CC No.2 of 2015 by the Judicial Magistrate (Special Court) Land Grabbing Cases, Theni.

3. Seeking quashment of the same, this petition came to be filed by the petitioner on the ground that it is purely a civil dispute between the parties, which has been given criminal colour. He would also rely upon stating that on the date of the alleged sale agreement, he was only aged about 19 years. Even though, the occurrence said to have taken place, on 03/11/2009, the complaint was given only in 2013. The identify of the second respondent is also in question, since her original name is K.D.Palammal. But whereas in the ration card, her name was mentioned as K.D.Navarogi Ponmani Palammal.

4. Heard both sides.

5. It is the specific allegation of the second respondent to the effect that A1 impersonated her and sold the property and later, there was a partition between themselves. Subsequent to that, there were several sale deeds.

6. The learned counsel appearing for the petitioner would submit that the identity of the second respondent is also under cloud, since her original name is K.D.Palammal and now, K.D.Navarogi Ponmani Palammal. With the false address, averments and allegations, complaint has been given, but without properly investigating the issue, final report has been filed.

7. At the out set, it appears that it is purely a disputed question of identify of the second respondent. The original purchaser of the property under dispute cannot be a matter for consideration in this petition. It requires thorough trial process. Unless the trial process is undertaken, the identity of the second respondent cannot be ascertained. So, the consequence is that any impersonation on the part of the first accused and forgery of document, cannot be a matter for consideration by this court, at this stage, it is also a matter for trial. Even though, it is contented on the part of the petitioner that on the date of the



alleged impersonation, he was only aged about 19 years, according to him, a person of such an age would not have indulged in such forgery, etc. This is a far-fetched argument, which cannot be taken into account. He would further rely upon the suit in O.S.No.152 of 2014 filed by one B.R.Gopan and others against the the petitioner herein and the second respondent and one Manokaran. But that suit will not help the case of the petitioner now, because the partition deed, dated 18/02/2008 is also under dispute.

8.As mentioned above, according to the second respondent, the partition has been effected among the family members of A1, in pursuance of the above said forgery. So the order that has been passed in I.A.No.487 of 2014 in O.S No.152 of 2014 in favour of the petitioner cannot be taken into consideration for supporting the case of the petitioner, when serious allegation of forgery and impersonation are stated. The matter requires thorough trial process. So, I find no convincing ground to exercise the jurisdiction of this court under section 482 Cr.P.C to quash the criminal proceedings.

9.In the result, this criminal original petition is dismissed. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar (CS III)

// True Copy //

/06/2022

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 Judicial Magistrate,
(Special Court),
Land Grabbing Cases,Theni.
- 2.The Inspector of Police,
District Crime Branch,
(Land Grabbing Wing),
Theni District, Theni.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

Cr1.OP(MD)No.18088 of 2019

29.04.2022