



Crl.O.P.No. 15965 of 2015

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.04.2023

CORAM

THE HONOURABLE Mr.JUSTICE **G.K.ILANTHIRAIYAN**

Crl.O.P.No. 15965 of 2015

and

M.P.No.1 of 2015

S.Sekar

.... Petitioner/Accused No.1

Vs

1. The State by
The Assistant Commissioner of Police,
St.Thomas Mount,
Chennai – 600 016.

2. D.V.Nagarajan Respondent/Defacto Complainant

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C,
praying to call for the entire records in PRC No.9 of 2013 on the file of
Judicial Magistrate, Alandur, Chennai and quash the same.

For Petitioner : Mr.M.Selvam

For R1 : Mr.S.Rajakumar
Additional Public Prosecutor



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ORDER

This Criminal Original Petition has been filed to quash the proceedings in PRC No.9 of 2013 on the file of Judicial Magistrate, Alandur, Chennai.

2. The case of the prosecution is that the property admeasuring 1.35 cents in Esa Pallavaram Village was ancestral property of the defacto complainant and was inherited by him through his father Venkatatri and he was in possession and enjoyment of the same till the year 1982. After demise of his father, when the defacto complainant was away from the said property, one Sankaraiah offered to look after the property, he trusted and paid reasonable remuneration for him. After he left the property, the said Sankaraiah occupied the entire property and later he along with Jalal entered into criminal conspiracy and created so many fake documents of sale in favour of many persons in pieces of 1.35 acres and got wrongful gain for himself.

3. After death of the said Sankaraiah, his son S.Sekar, who has also



followed the criminal offence of creating fake documents, executed several sale deeds, by impersonation an old lady viz., Kattammal and conveyed the land in pieces to several persons. There was no relationship between Kattammal impersonated by S.Sekhar and Jalal and the family members of the defacto complainant. Moreover, one Chandrasekara Nadar also committed the offence of making false sales deed in respect of the land exclusively belonged to the defacto complainant by committing criminal conspiracy with the said S.Sekar, Jalal and enriched themselves, wrongfully gained huge amount.

4. Further, P.S.Sigamani, P.Gunalan, P.S.Mallika falsely represented as if they got settlement of certain portion of the defacto complainant from their late father sold the same to Ramamurthy, Proprietor of Arun Murugan Builders and got into wrongful possession. By reason of false sales, several persons are in occupation of the property by trespassing into our property. Hence, the defacto complainant lodged a complaint against 13 accused persons.

5. The learned counsel appearing for the petitioner would submit



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that the petitioner has falsely implicated as an accused in this case. The actual fact of the case is creation of false documents by various persons in respect of the property inherited by the defacto complainant, behind his back, and impersonation and wrongful entry in S.Nos.21 and its Sub Divisions 21/A, 21/1C, 21/4 and 21/3 total extent of 1.35 acres situated at Isa Pallavaram, GST Road, Arunthathipuram 1st Street, Chennai – 43. He further submitted that the defacto complainant, being SC/ST Community, misused the Act and lodged false complainant. The petitioner also filed a suit along with his sister in O.S.No.373 of 2001 on the file of the District Munsif, Alandur, in respect of the very same property and the same was decreed by a Judgment and Decree dated 12.02.2004 in favour of the petitioner. He further submitted that insofar as A5, A8 and A10 have filed quash petition and the same was allowed by this Court by a Judgment dated 01.04.2021 in Crl.O.P.Nos.1634 & 6415 of 2015.

6. Heard the learned counsel appearing for the petitioner and the learned Additional Public Prosecutor appearing for the respondent and perused the materials available on record.

7. A perusal of the records reveals that it is pertinent to note that the



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petitioner/Accused (A1) , who belongs to Arunthathiar Community and A2, who belongs to Nadar Community, A1 created a forged settlement deed in favour of A1 to an extent of 1.35 cents and further executed several sale deeds by impersonating a lady and conveyed the land in pieces to several persons. Moreover, A2 also committed the offence of making fake sale deeds in respect of the land belongs to the complainant by committing criminal conspiracy with A1 and others and enriched themselves with huge amount wrongfully. Therefore, the petitioner is standing in a different footing with the other accused. Hence, prima facie case has been made out in order to attract the charges under Sections 120(b), 468, 471, 448 and 34 of IPC read with 3(1)(V) of SC/ST (POA) Act.

8. In this regard, it is relevant to rely upon the judgment of the Hon'ble Supreme Court of India passed in ***Crl.A.No.579 of 2019*** dated ***02.04.2019*** in the case of ***Devendra Prasad Singh Vs. State of Bihar & Anr.***, as follows:-

" 12.So far as the second ground is concerned, we are of the view that the High Court while hearing the application under



Section 482 of the Cr.P.C. had no jurisdiction to appreciate the statement of the witnesses and record a finding that there were inconsistencies in their statements and, therefore, there was no prima facie case made out against respondent No.2. In our view, this could be done only in the trial while deciding the issues on the merits or/and by the Appellate Court while deciding the appeal arising out of the final order passed by the Trial Court but not in Section 482 Cr.P.C. proceedings.

13. In view of the foregoing discussion, we allow the appeal, set aside the impugned order and restore the aforementioned complaint case to its original file for being proceeded with on merits in accordance with law.

9. The Hon'ble Supreme Court of India dealing in respect of the very same issue in ***Crl.A.No.1572 of 2019*** dated 17.10.2019 in the case of ***Central Bureau of Investigation Vs. Arvind Khanna***, wherein, it has been held as follows:

“19. After perusing the impugned order and on hearing the submissions made by the learned



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senior counsels on both sides, we are of the view that the impugned order passed by the High Court is not sustainable. In a petition filed under Section 482 of Cr.P.C., the High Court has recorded findings on several disputed facts and allowed the petition. Defence of the accused is to be tested after appreciating the evidence during trial. The very fact that the High Court, in this case, went into the most minute details, on the allegations made by the appellant-C.B.I., and the defence put forth by the respondent, led us to a conclusion that the High Court has exceeded its power, while exercising its inherent jurisdiction under Section 482 Cr.P.C.

20. In our view, the assessment made by the High Court at this stage, when the matter has been taken cognizance by the Competent Court, is completely incorrect and uncalled for.”

10. Further the Hon'ble Supreme Court of India also held in the order dated **02.12.2019** in **Crl.A.No.1817 of 2019** in the case of **M.Jayanthi**

Vs. K.R.Meenakshi & anr, as follows:

"9. It is too late in the day to seek reference to any authority for the proposition that while



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invoking the power under Section 482 Cr.P.C for quashing a complaint or a charge, the Court should not embark upon an enquiry into the validity of the evidence available. All that the Court should see is as to whether there are allegations in the complaint which form the basis for the ingredients that constitute certain offences complained of. The Court may also be entitled to see (i) whether the preconditions requisite for taking cognizance have been complied with or not; and (ii) whether the allegations contained in the complaint, even if accepted in entirety, would not constitute the offence alleged.

.....

13. A look at the complaint filed by the appellant would show that the appellant had incorporated the ingredients necessary for prosecuting the respondents for the offences alleged. The question whether the appellant will be able to prove the allegations in a manner known to law would arise only at a later stage....."

The above judgments are squarely applicable to this case and as such, the points raised by the petitioner cannot be considered by this Court under



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Section 482 Cr.P.C.

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11. In view of the above discussion, this Court is not inclined to quash the proceedings in PRC. No.9 of 2013 on the file of the Judicial Magistrate, Alandur. Accordingly, this Criminal Original Petition is dismissed. Consequently, connected miscellaneous petition is closed.

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Internet: Yes

Neutral Citation : Yes/No

Speaking/non speaking order

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