



WEB COPY



Crl.O.P.No.7710 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.02.2023

CORAM:

THE HONOURABLE MR. JUSTICE G.CHANDRASEKHARAN

Crl.O.P.No.7710 of 2022

&

Crl.M.P.No.4443 of 2022

1.P.Suresh
2.P.Saravanan

... Petitioners

Vs.

1.The State
Represented by Inspector of Police,
Kallakurichi Police Station,
Kallakurichi – 606 202.
(Crime No.1115 of 2021).

2.P.K.Mohan

... Respondents

PRAYER: Criminal Original Petition filed under Section 482 Cr.P.C. praying to quash the FIR in Crime No.1115 of 2021 dated 17.08.2021 pending on the file of 1st respondent police.

For Petitioners : Mr.D.Babu Varadharajan

For Respondents : Mr.N.Manoharan (for R1)
Mr.C.A.Ramanan (for R2)



Crl.O.P.No.7710 of 2022

ORDER

WEB COPY This Criminal Original Petition has been filed to quash the FIR in Crime No.1115 of 2021 dated 17.08.2021 pending on the file of 1st respondent police.

2. Learned counsel for the petitioners submitted that petitioners are only attesting witnesses in sale deed dated 14.06.2021 vide Doc.No.1064 of 2021. They are not aware of the dispute pending between the *de-facto* complainant and A1 to A4. However, they were roped in as an accused only because they had attested the aforesaid sale deed. Thus, this petition.

3. Learned counsel for the 2nd respondent submitted that two settlement deeds dated 10.12.2015 in Doc.Nos.1854 & 1855 of 2015 had been executed on the basis of false representation made by Sundrambal to Athayee Ammal and Periya Gounder. Later original documents were handed over to the *de-facto* complainant by Athayee Ammal. The *de-facto* complainant filed a suit in O.S.No.234 of 2017 on the file of the District Munsif Court, Kallakurichi challenging the aforesaid settlement deeds. Athayee Ammal had also given a complaint/petition before the Sub - Collector, Kallakurichi claiming that she had not executed settlement deed in favour of Sundrambal and for the cancellation of sale deeds. Athayee Ammal died on 06.10.2020.



Suppressing all these facts, especially the fact that original settlement deeds have been filed by the *de-facto* complainant in O.S.No.234 of 2017, the accused gave a publication in 'Dina Seithi' Tamil newspaper on 21.02.2021 claiming that original documents were lost. Thereafter, a complaint was given to the police and then the sale deed dated 14.06.2021 was executed by A1 to A4 in favour of A5. A6, A7, petitioners herein knowing fully well that A1 to A4 had no right to execute the sale deed, stood as witnesses for the sale deed. Therefore, they have to be necessarily prosecuted.

4. Learned Government Advocate (Crl.side) submitted that except the allegations made in the complaint and First Information Report that petitioners had also involved in fabrication of documents, so far no other material is collected or available to show that petitioners had actively involved in the fabrication of the sale deed.

5. Considered the rival submissions and perused the records.

6. Reading of the First Information Report shows that *de-facto* complainant's grand parents Periya Gounder and Athayee Ammal owned the properties. It is claimed that Athayee Ammal had executed a Will in favour of *de-facto* complainant's father on 11.08.1987. Thereafter, *de-facto* complainant's aunt Sundrambal took Periya Gounder and Athayee Ammal and



Crl.O.P.No.7710 of 2022

got their signature in the settlement deeds in Doc.Nos.1854 & 1855 of 2015

claiming that their signatures are obtained for a loan purpose. On 19.07.2017 the accused tried to evict the *de-facto* complainant from the house and land claiming that the properties were settled in favour of Sundrambal. Only then the *de-facto* complainant came to know about the existence of these settlement deeds. A suit in O.S.No.234 of 2017 was filed before the learned District Munsif, Kallakurichi and all the original documents including the aforesaid settlement deeds were produced by the *de-facto* complainant. Athayee Ammal had also given a petition to the Sub - Collector, Kallakurichi for cancelling the settlement deeds executed by her. After she died on 06.10.2020, false complaint was given by Sundrambal claiming that original documents were lost and obtained Non-Traceable Certificate from the Sub-Inspector of Police, Kallakurichi Police Station. Thereafter, she sold the properties to 5th accused. In the said sale deed No.1064 of 2021, petitioners had signed as attesting witnesses.

7. Thus, it is seen from the allegations, only allegation we can find from the First Information Report against the petitioner is that they helped in fabricating the sale deed by attesting the sale deed. Except this one line allegation, as of now, there is no material available to show that petitioners



Crl.O.P.No.7710 of 2022

knew about the litigation in O.S.No.234 of 2017 on the file of the District Munsif, Kallakurichi, the petition given by Athayee Ammal for cancellation of settlement deeds, paper publication given by Sundrambal alleging loss of original documents and obtaining Non-Traceable Certificate. In the absence of material to show that petitioners knew about all these transactions, merely because petitioners stood as attesting witnesses, this Court is of the considered view that no further proceedings in Crime No.1115 of 2021 on the file of 1st respondent police can be taken forward against the petitioners. As of now, there is no legal materials available for prosecuting the petitioners in this case for any of the offences mentioned in the First Information Report.

8. In this view of the matter, proceedings against the petitioners in Crime No.1115 of 2021 for the offences under Sections 182, 420 and 423 of IPC is quashed and this Criminal Original petition is allowed. Consequently, connected miscellaneous petition is closed.

15.02.2023

Internet: Yes
Index: Yes/No
mpl



WEB COPY



Crl.O.P.No.7710 of 2022

G.CHANDRASEKHARAN, J.
mpl

To

1.The Inspector of Police,
Kallakurichi Police Station,
Kallakurichi – 606 202.

2.The Public Prosecutor,
High Court of Madras.

Crl.O.P. No.7710 of 2022
&
Crl.M.P.No.4443 of 2022

15.02.2023