



CrI.O.PNo.6604 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.04.2023

CORAM

THE HONOURABLE MR. JUSTICE SUNDER MOHAN

CrI.O.P.No.6604 of 2021

and

CrI.M.P.Nos.4375 of 2021

1.Balamuralikrishnan
2.Punniyakodi
3.Chandrasekar

...Petitioners

Vs.

1.The State rep. by its
The Inspector of Police,
Anti-Land Grabbing Special Cell,
Villupuram, Villupuram District.
(Cr.No.28 of 2013)

2.Vimala

...Respondents

Prayer:- Criminal Original Petition filed under Section 482 of Cr.P.C., calling for the records pertaining to the C.C.No.113/2019 pending on the file of the Judicial Magistrate No.II, Tindivanam and quash the same.

For Petitioner : Mr.S.Seenuvasan

For Respondents : Mr.A.Damodaran

Additional Public Prosecutor

R2-No Appearance – not served



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ORDER

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This petition is filed to quash the final report in C.C.No.113 of 2019 for the alleged offences under Sections 447, 420, 464, 467 & 506(i) IPC.

2.It is alleged in the final report that the de-facto complainant's husband and the 4th accused are brothers; that the de-facto complainant owned properties in Survey No.700/1, which was later re-numbered as Survey No.700/1A2A1 measuring an extent of 15 cents; that the 4th accused falsely claiming title over the said property executed settlement deed in favour of his sons, A1 to A3; that when the de-facto complainant questioned the accused, they threatened them with their consequences.

3.The learned counsel appearing for the petitioners submitted that the judgment of the Hon'ble Supreme Court in **Mohammed Ibrahim and Others Vs. State of Bihar and Another** reported in **2009 (8) SCC 751** would squarely applicable to the case on hand. He would submit that the petitioners had not forged any document. Infact, there was a settlement



entered into between the de-facto complainant and the accused in the year 2006 in respect of the same property and suppressing the same, the de-facto complainant has come up with this false complaint, which has resulted in filing of the final report.

4.The learned Additional Public Prosecutor appearing for the 1st respondent submitted that the allegations are that the petitioners falsely claimed title over the property and committed the alleged offences. He would further submit that the allegations have to be adjudicated only before the Trial Court and hence, prayed for dismissal of the quash petition. Though notice sent to the 2nd respondent, none has entered appearance.

5.This Court, on perusal of the impugned final report finds that the de-facto complainant and the accused are closely related to each other. The claim of the de-facto complainant is that the property measuring 15 cents in Survey No.700/1 of Marakannam belong to her husband. However, the 4th accused, who is her husband's brother falsely claiming ownership over the said property executed settlement deed in favour of his sons namely, A1 to A3.



6.The Hon'ble Supreme Court in **Mohammed Ibrahim and Others**

Vs. State of Bihar and Another reported in **2009 (8) SCC 751** held that where the sale deed is executed by falsely claiming title of the property it would not amount to making a false document. The relevant observations of the said judgment are extracted hereunder:-

“17. When a document is executed by a person claiming a property which is not his, he is not claiming that he is someone else nor is he claiming that he is authorised by someone else. Therefore, execution of such document (purporting to convey some property of which he is not the owner) is not execution of a false document as defined under Section 464 of the Code. If what is executed is not a false document, there is no forgery. If there is no forgery, then neither Section 467 nor Section 471 of the Code are attracted.

18. Let us now examine whether the ingredients of an offence of cheating are made out. The essential ingredients of the offence of “cheating” are as follows:

(i) deception of a person either by making a false or misleading representation or by dishonest concealment or by any other act or omission;



(ii) fraudulent or dishonest inducement of that person to either deliver any property or to consent to the retention thereof by any person or to intentionally induce that person so deceived to do or omit to do anything which he would not do or omit if he were not so deceived; and

(iii) such act or omission causing or is likely to cause damage or harm to that person in body, mind, reputation or property.

7.It is not the case of the second respondent that she was deceived. As regards the offence under Section 420 IPC, the Hon'ble Supreme Court in **Mohammed Ibrahim and Others Vs. State of Bihar and Another** reported in **2009 (8) SCC 751** observed as follows:-

“20.When a sale deed is executed conveying a property claiming ownership thereto, it may be possible for the purchaser under such sale deed, to allege that the vendor has cheated him by making a false representation of ownership and fraudulently induced him to part with the sale consideration. But in this case the complaint is not by the purchaser. On the other hand, the purchaser is made a co-accused.



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21.It is not the case of the complainant that any of the accused tried to deceive him either by making a false or misleading representation or by any other action or omission, nor is it his case that they offered him any fraudulent or dishonest inducement to deliver any property or to consent to the retention thereof by any person or to intentionally induce him to do or omit to do anything which he would not do or omit if he were not so deceived. Nor did the complainant allege that the first appellant pretended to be the complainant while executing the sale deeds. Therefore, it cannot be said that the first accused by the act of executing sale deeds in favour of the second accused or the second accused by reason of being the purchaser, or the third, fourth and fifth accused, by reason of being the witness, scribe and stamp vendor in regard to the sale deeds, deceived the complainant in any manner.”

8.The above observation of the Hon'ble Supreme Court apply to the facts of the case. There are no allegations to attract the offence of criminal trespass and criminal intimidation. The alleged words uttered would not amount to real threat so as to attract the offence under Section 506(i) IPC. Hence, this Court is inclined to quash the impugned final report. Accordingly, the final report in C.C.No.113 of 2019 is quashed.



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9.This Criminal original Petition is allowed with the above observations. No costs. Consequently, connected miscellaneous petition is closed.

17.04.2023

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Internet : Yes/No

Index: Yes/No

Speaking / Non-speaking order

Neutral Citation :Yes/No

Note: Issue order copy on 20.04.2023.

To:-

- 1.The Inspector of Police,
Anti-Land Grabbing Special Cell,
Villupuram, Villupuram District.
- 2.The Judicial Magistrate – II,
Tindivanam.
- 3.The Public Prosecutor
High Court of Madras,
Madras.



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SUNDER MOHAN, J.

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