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Crl.O.P.Nos.16577 of 2020 and 5301 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 28.04.2023

CORAM:

THE HONOURABLE MR. JUSTICE **P.VELMURUGAN**

**Crl.O.P.Nos.16577 of 2020 and
5301 of 2021 and
Crl.M.P.Nos.9679 and 3389 of 2021**

Hassain

...Petitioner in Crl.O.P.No.16577/20

1. K.Mahalingam
2. N.Kandasamy
3. N.Mohan

..Petitioners in Crl.O.P.No.5301/21

Vs.

1. State represented by
The Superintendent of Police,
Chengalpattu, Chengalpattu District.
2. State represented by
The Sub Inspector of Police (L & O),
E8, Kelambakkam Police Station,
Chengalpattu District.
3. The Forensic Sciences Department,
Hand Writing Bureau,
Kamarajar Salar,
Chennai – 600 004.
4. State represented by



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The Inspector of Police,
District Crime Branch,
Chengalpattu District.

...Respondents in Crl.O.P.No.16577/2020

1. State of Tamilnadu,
The Inspector of Police,
District Crime Branch,
Chengalpattu District,
2. The State represented by
The Sub-Inspector of Police,
E-8, Kelambakkam Police Station,
Thiruporur Taluk,
Chengalpattu District.

3. Hassain

...Respondents in Crl.O.P.No.5301/2021

Prayer in Crl.O.P.No.16577/20: The Criminal Original Petition filed under Section 482 of Cr.P.C. seeking direction to the second respondent to send the court certified copies of the fabricated affidavits filed by the accused using an impersonator, filed before the District Munsif Court, Chengalpattu, in the false and fabricated affidavits typed in Tamil in O.S.No.159 of 1986 dated 24.07.2015 in the name of Mehrunnissa and counter affidavit typed in English in I.No.921 of 2015 dated 08.09.2015 in the name of Mehrunnissa to 3rd respondent for rendering their opinion about the genuineness of the signature therein with a stipulated time that may be fixed by this Court.

Prayer in Crl.O.P.No.5301/21: The Criminal Original Petition filed under Section 482 of Cr.P.C. seeking to call for the records pertaining to the FIR registered in Crime No.3436 of 2020 dated 11.08.2020 pending on the file of the second respondent, now transferred to the first respondent police and renumbered as Crime No.10 of 2021 dated 20.02.2021 and quash the same.

For Petitioners :Mr.M.Gopi in Crl.O.P.No.16577/20



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Mr.Mahalingam in Crl.O.P.No.5301/21

For Respondents : Mr.S.Sugendran, Govt. Advocate (Crl.Side)
in Crl.O.P.No.16577/20 and for R1 and R2
in Crl.O.P.No.5301/2021

Mr.M.Gopi for R3

COMMON ORDER

The Criminal Original Petition in Crl.O.P.No.16577 of 2020 has been filed by the petitioner seeking direction to the second respondent to send the court certified copies of the fabricated affidavits filed by the accused using an impersonator, before the District Munsif Court, Chengalpattu, in the false and fabricated documents filed in O.S.No.159 of 1986. In connection with the above fabricated documents, the petitioner has also lodged complaint and since there was no action on the same, the petitioner approached this Court and based on the direction issued by Court below, a case was registered in Crime No.3436 of 2020 against the petitioners in the other Crl.O.P.No.5301 of 2020 and now transferred and renumbered as Cr.No.10 of 2021 pending on the file of the Inspector of Police, District Crime Branch, Chengalpattu District, which sought to be quashed by the

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petitioners/accused in Crl.O.P.No.5301 of 2020.

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2 It is the contention of the petitioner in Crl.O.P.No.16577 of 2020 that after the death of his father Hyath Basha, the petitioner and his eldest brother Sadiq Basha and their mother Mehrunnissa were the care takers of the lands in Padur Village owned by the persons in Chennai. In the year 1986, the eldest brother Sadiq Basha in collusion with one Kandasamy and Mohan, landlords at Padu Village had created fraudulent documents and obtained signatures from the petitioner's mother Mehrunnissa without the knowledge of the petitioner and registered the same. In the year 2011 after detailed enquiry the patta No.340 stands in the name of the said Kandasamy and Mohan was cancelled, by the order of RDO, Chengalpet and the same was confirmed by the DRO, Kancheepuram and the matter went to High Court, where also the order of the RDO was confirmed.

2.1 The defacto complainant preferred the complaint before the



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second respondent stating that the accused persons K.Mahalingam, N.Kandasamy and N.Mohan have prepared fabricated signed affidavits using impersonator to sign like the defacto complainant's mother and filed before the District Munsif Court, Chengalpaet in O.S.No.159 of 1986. Since there was no action on his complaint, he moved petition under Section 156(3) Cr.P.C. and based on the direction issued by the learned Judicial Magistrate No.I, Chengalpet, the second respondent police registered a case in Crime No.3436 of 2020, which has been transferred and renumbered as Cr.No.10 of 2021.

2.2 Even though, the second respondent police registered the case, has not taken any effective steps to forward the fabricated documents to the Hand Writing Expert to prove the crime committed by the accused persons. Therefore it is necessary to direct the second respondent police to get the fabricated documents filed before the District Munsif Court, Chengalpet, to prove the fraud committed by the accused persons.

3 Mr.Mahalingam, first petitioner appeared as party-in-person



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and also counsel for the second and third petitioners in Crl.O.P.No.5301 of 2021 would submit that 2nd and 3rd petitioners have purchased the property measuring an extent of 1 acre 57 cents from the mother and elder brother of the third respondent Hassain, who is the petitioner in the Crl.O.P.No.16577 of 2020 vide registered sale deed dated 25.11.1986 and they have also granted patta No.346, during the year 1999. While so, the patta granted in favour of the second and third petitioners came to be cancelled and regarding the same, litigation is also pending. Further, suppressing the vital facts, the rival claimants have filed a suit before the District Munsif Court, Chengalpet. The first petitioner has appeared as counsel for the mother of the third respondent Hassain, who appeared in person before the District Munsif Court, Chengalpet on 24.07.2015 and her appearance before the Court was noted and confirmed by the Presiding Officer, after perusal of the identity card furnished by her. Now the defacto complainant has preferred false complaint against the petitioners at the behest of rival claimants of the property under the directions of an Advocate. The complaint has been purposely filed after 5 years since, the first petitioner has brought to the light the illegal land grabbing activities of an Advocate. He would further submit



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that based on the false complaint, an attempt is taken by the rival claimants to coerce the petitioners and dispossess the second and third petitioners, who are innocent purchasers of the property. Therefore the case in Crime No.3436 of 2020 is liable to be quashed.

4 Mr.S.Sugendran, learned Government Advocate (Crl.Side) appearing for the police would submit that the case has been registered on the direction by the Court below in the petition filed under Section 156(3) Cr.P.C. by the petitioner in Crl.O.P.No.16577 of 2020. Originally the case was forwarded to the second respondent viz. the Sub-Inspector of Police, E-8, Kelambakkam Police Station, Thiruporur Taluk, Chengalpet District, and the case was registered in Crime No.3436 of 2020 and thereafter on the directions of the Superintendent of Police, Chengalpet District, the case has been transferred to the file of the Inspector of Police, District Crime Branch, Chengalpet, District and renumbered as Crime No.10 of 2020. He would further submit that the Inspector of Police, DCB, Chengalpet, is taking steps to get the copies of the disputed documents filed in O.S.No.159 of 1986 on the file of the District Munsif Court, Chengalpet in respect of the allegations



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made in the complaint by the Hassain.

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5 Heard the learned counsel on either side and perused the materials available on record.

6 It is the main allegation of the defacto complainant, who is petitioner in Crl.O.P.No.16577 of 2020 that the first petitioner in the other Crl.O.P.No.5301 of 2020 viz. K.Mahalingam, has filed false affidavit in the suit in O.S.No.159 of 1986 by impersonating the defacto complainant's mother Mehrunnisa and the respondent police has not taken any effective steps to send the disputed document to the Forensic Department to get expert's opinion.

7 The petitioners who are the accused in the Crime No.3436/2010 and now renumbered as Crime No.10 of 2021 registered based on the complaint given by the defacto complainant, have contended that 2nd and 3rd petitioners have purchased the property measuring an extent of 1.57 cents from defacto complainant's mother Mehrunnisa and elder brother Saddiq



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Basha and patta was also granted in favour of them, which was subsequently cancelled, for which several proceedings are pending. Further it is contended that after verification of the identity of the said Mehrunissa, who appeared before the Court below in person only the Court below received the said documents and hence now the present complaint filed by the defacto complainant, who is younger son of the said Mehrunnissa, is liable to be quashed.

8 O.S.No.159 of 1986, in which the disputed documents filed, has already been disposed of by the learned District Munsif, Chengalpet on 17.02.2017. Further the main allegation of the defacto complainant is that the accused impersonating her mother Mehrunnissa has filed counter affidavit before the Civil Court. It is to be noted that the said Mehrunnissa and her elder son Saddiq Basha are alive, but the said Mehrunnissa has not filed any petition for the allegation made by the defacto complainant. Further the said Mehrunnissa after appearing before the Court below on 24.07.2015 and on 08.09.2015 only signed the counter affidavits before the counsel. Hence, if at all the defacto complainant has any grievance regarding the



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genuineness of the counter affidavit signed by his mother Mehrunnissa filed before the Court below, the said Mehrunnissa has to file petition for the same and the defacto complainant has no *locus standi* to file any petition for the allegation made by him.

9 For the foregoing reasons, the case in Crime No.10 of 2021 dated 20.02.2021 is hereby quashed and thereby the petition in Crl.O.P.No.5301 of 2021 is allowed.

10 In view of the above observations, the other petition in Crl.O.P.No.16577 of 2020 seeking direction to send the disputed documents to Forensic Department, is also disposed of. Consequently all the connected miscellaneous petitions are closed.

Speaking Order/Non Speaking
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To
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1. The Superintendent of Police,
Chengalpattu, Chengalpattu District.
2. The Sub Inspector of Police (L & O),
E8, Kelambakkam Police Station,
Chengalpattu District.
3. The Forensic Sciences Department,
Hand Writing Bureau, Kamarajar Salar,
Chennai – 600 004.
4. The Inspector of Police,
District Crime Branch, Chengalpattu District.
5. The Public Prosecutor, High Court of Madras.



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P.VELMURUGAN, J.,

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Pre-delivery order in
Crl.O.P.Nos.16577 of 2020 and
5301 of 2021 and
Crl.M.P.Nos.9679 and 3389 of 2021

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