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CRL.O.P.No.19451 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.02.2023

CORAM:

THE HON'BLE Ms.JUSTICE R.N.MANJULA

CrI.O.P.No.19451 of 2020

and

CrI.MP.No.7809 of 2020

1.Thirumalai

2.Arulnathan @ Arul Dhasan .. Petitioners/A2 & A3

Versus

1.The State rep. by

The Inspector of Police,
CCB-II Police Station,
Chennai.

(Crime No.22/2019)

... 1st Respondent/complainant

2.Devanbu

...2nd respondent/ defacto complainant

Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure to call for the records in Cr.No.22 of 2019 on the file of the 1st respondent and quash the same.

For Petitioners : Mr.S.Karthikeyan for
Mr.V.Karnan

For Respondent-1: Mr.A.Gopinath
Government Advocate (crl.side)

For Respondent-2 : Mr.S.Thangavel



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ORDER

This Criminal Original Petition has been filed to quash the proceedings in Cr.No.22 of 2019 on the file of the 1st respondent .

2.The petitioners are the accused 2 and 3 in Cr.No.22 of 2019 on the file of the 1st respondent. The second respondent / defacto complainant has given a complaint that a property in Survey Number 148/D2 and 152 at Selaiyur Village was originally belonged to one Kanni. As per 'A Register' of the Selaiyur village, for the year 1911 the above said Kanni's name is seen as an agriculturist for the above property. Kanni had two sons by names Aruldass and K.M.John. For Aruldass One Ebinezer and the second respondent are the legal heirs of Aruldass. In the year 2004 the said Aruldass and K.M.John had partitioned the said land measuring an extent of 89 cents in S.No.152/3B2 into equal parts. The said Survey Number has been further sub divided as under:

M.M.John-44 cents in New Town Survey No.65/1
Ebinezar -22 cents in New Town Survey No.65/2



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Aruldoss -22 cents in New Town Survey No.65/3

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When the revenue records should in the possession of the second respondent, one Ponnusamy and Arumugam had created forged registered documents in respect of the said property on the strength of a forged patta in 2295 JP.No.917/8. On verification the Tashildar, Tambaram vide proceedings in Oo.Mu.3367/2006 (Aa5) dated 07.03.2006 has stated that the patta was a forged one. On the basis of the above order the second respondent has given the present complaint against the petitioners and others and on which the FIR in Crime No.22/2019 has been registered for the offences under Section 465, 468, 471, 420 and 120 IPC.

3.Heard the submissions made by the learned counsel on either side and perused the materials available on record.

4.The learned counsel for the petitioner submitted that the petitioner had given complaint by suppressing the essential facts. The said property along with other properties were originally belonged to one Kullam and he had two sons one Kanni @ Kannagaraj @ Gnanasignamani and Chinna Kannu. While Aruldoss and K.M.John are the son's of Kanni, the first accused Ponnusamy and Arumugam are the sons of Chinna Kannu. Aruldoss



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had 8 children and the defacto complainant is one of the son's of Aruldoss.

Ponnusamy had four children and Arumugam had one son. The 2nd accused and the 3rd accused are the children of Ponnusay and Arumugam respectively and they are the petitioners herein.

4.1. The order of the Tashildar, Tambaram was challenged before the District Revenue officer Kanchipuram. The District Revenue Officer, Kanchipuram had observed that it is not possible at his end to conclude whether the patta No. 2295 issued by the Jamapanthi in JP.No.917/8 in the names of son's of Chinnathambi namely Ponnusamy and Arumugam is genuine or not. However the District Revenue officer advised the party to seek legal remedy with regard to title, without prejudice to the any other cases pending before the Courts. So the criminal complaint has been registered without making proper enquiry about the civil disputes and hence the complaint has to be quashed.

5. The learned Government Advocate (Crl.side) for the first respondent and the learned counsel for the second respondent have submitted that as per the order of the Tashildar the patta is found to be a forged one and the District Revenue Officer by his order did not set aside



the same. Hence the investigation should be allowed to go in order to confirm the genuineness of the patta.

6.The learned counsel for the second respondent submitted that on the strength of the patta the accused have created the title deeds in their favour. Even though the District Revenue officer has directed the parties to file a civil suit that will not absolve the criminality on the forged patta.

7.Even though the Tahsildhar had given a categorical finding about the impugned patta that it is a forged one, the District Revenue Officer has held that it is not possible to determine whether the patta is forged one or not. The advice given by the District Revenue Officer Kanchipuram is to approach the Civil Court.

8.The grievance of the second respondent is that the accused had created documents on the strength of the patta. The learned counsel for the petitioner submitted that the settlement deed dated 20.07.2005 is seen to have been executed by Arumugam in favour of the third respondent, but it is a created document. The copy of the settlement deed dated 20.07.2005 would show that the said document has been executed in view of the Final Decree dated 11.02.2003 passed by the Principal Sub Judge, Chengalpattu



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in OS.No.137/2002.

9. The origin of the alleged document is the decree of a civil Court.

Hence it is unnecessary for the second respondent is to fret about the patta. Since the petitioners are also legal heirs of Kullan's another son Chinnasamy and there were earlier litigations between the two branches, it cannot be said that the settlement deed in favour of A3 was executed only on the strength of the patta.

10. As rightly stated by the DRO the parties have already been advised to approach the civil Court for appropriate remedy. Even according to the DRO the impugned patta could not be called as a forged one. In such circumstances, it is premature to presume any criminality. Since the subject matter can be effectively readdressed before a Civil forum, the parties are at liberty to initiate appropriate proceedings as per the order of the DRO, it is unnecessary to register a case at this stage. Since the civil nature of the matter has prompted the DRO to pass an order no fruitful purpose will be served in initiating the criminal proceedings. Further, the petitioners are also the legal heirs of the other son's of the original owner Kullan and hence, it is a matter which can be resolved through civil proceedings.



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In view of the predominant civil nature of the subject matter I feel it is appropriate to quash the proceedings. Accordingly, this Criminal Original Petition stands allowed. The proceedings in Cr.No.22 of 2019 on the file of the 1st respondent is quashed. Consequently, connected miscellaneous petition is also closed.

10.02.2023

Index: Yes/No
jrs

To:

1. The Inspector of Police,
CCB-II Police Station,
Chennai.
2. The Public Prosecutor,
High Court, Madras.



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R.N.MANJULA, J.,

jrs

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