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Crl.O.P.No.18864 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:18.10.2023

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

Crl.O.P.No.18864 of 2021
and Crl.M.P.No.10377 of 2021

Radhakrishnan

... Petitioner

Vs.

1. State by
Inspector of Police,
District Crime Branch,
Kanchipuram District.
(Crime No.12 of 2021)

2. Venkatesan
Thasildar,
Sriperumbuthur Taluk,
Kanchipuram District.

... Respondents

PRAYER:- Criminal Original Petition filed under Section 482 of Cr.P.C. praying to call for the records in Crime No.12 of 2021 on the file of Inspector of Police, District Crime Branch, Kanchipuram District insofar as this Petitioner is concerned and quash the same.

For Petitioner : Mr.K.Balu

For Respondents : Mr.A.Gopinath
Government Advocate (Crl.Side)



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ORDER

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This Criminal Original Petition has been filed calling for the records in Crime No.12 of 2021, on the file of Inspector of Police, District Crime Branch, Kanchipuram District, insofar as this Petitioner is concerned and quash the same.

2. Heard the learned counsel for the petitioner and the learned Government Advocate (Crl.Side) for the respondents and perused the materials available on record.

3. The case of the prosecution is that the second respondent lodged a complaint on 23.04.2021, alleging that the documents covering the dry land ad-measuring 7.5 acres and other lands in S.No.310/1, situated at Beemanthangal Village, Sriperumbudur Taluk, which was originally classified as grazing ground poramboke in the revenue records, was altered as Anadheenam lands in the village accounts without any valid documents for the same. It is further alleged that Patta No.3501 in Sub-Division 310/37 for the said land had been issued by A1, as if the land was purchased from the legal heirs of one Venugopal during the year 2004 and had been under his enjoyment from the year 1957, as per the order of this Court in W.P.No.28923 of 2004 dated



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07.10.2004 and the order of Assistant Settlement Officer, Thiruvannamalai.

Therefore, the accused conspired together and committed the offence of forgery. Hence, the complaint.

4. On receipt of the complaint, the first respondent registered FIR in Crime No.12 of 2021 for the offences punishable under Sections 120B, 465, 468, 471, 477A, 420 and 34 of IPC. There are totally three accused, in which the petitioner is arrayed as A3.

5. The learned counsel for the petitioner would submit that only on the direction issued by this Court in W.P.No.28923 of 2004 dated 07.10.2004, he had issued patta that too on the order passed by the Assistant Settlement Officer, Thiruvannamalai, by its proceedings dated 26.07.2000. Therefore, the petitioner never gained anything and he was retired in the year 2015 itself. He acted as dutiful Officer on good faith and he acted on the direction issued by his superior Officer. Therefore, the issuance of patta in favour of the first accused is only in pursuant to the order passed by this Court and the order passed by the Assistant Settlement Officer, Thiruvannamalai. There is no falsification of records and no intention for issuance of patta in the name of the individuals as alleged in the complaint. The petitioner sub divided the patta based on the



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records and passed an order of sub division under Section 10 (3)(a) of the Tamil Nadu Patta Passbook Act. Therefore, he is prosecuted under Section 19 of the Tamil Nadu Patta Passbook Act.

6. During the investigation, it was found that the Beemanthangal Zamin Estate/Village was taken over by the Government as per the Tamil Nadu Estate (Abolition and Conversion into Ryotwari) Act, 1948 on 03.01.1951 and Ryotwari Settlement was introduced and the Beemanthangal Zamin Estate/Village was attached with Nemili village. The said land was allocated with S.Nos.305 to 351. The subject land in question in S.No.310/1, ad-measuring 36.51 acres were classified as Sarkar Poromboke grazing ground at the time of settlement. The settlement process were over as early as in the year 1960 in Beemanthangal and Nemeli Villages. Therefore, the petitioner sought for change of classification of issuance of patta could not be entertained, as per the notification issued in G.O.No.714 of Commercial Taxes and Religious Endowments Department, dated 29.06.1987 and no authority could entertain any request beyond 20.08.1987. Further, one P.V.Saraswathy and one P.V.Sankaranarayanan had jointly executed a General Power of Attorney in favour of one Santhakumari. In turn, the said Santhakumari had entered into a sale agreement for the said land ad-measuring 7.67 acres in S.No.310/1 with A1



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on 21.01.2000 and executed a sale deed on 20.09.2004 vide Document No.4862 of 2004. Thereafter, A1 had approached the Assistant Settlement Officer, Tiruvannamalai/A2 for issuance of patta based on the sale agreement. Thereafter, A2 and A3 ordered for issuance of patta. Thereafter, A1 approached A3 seeking patta based on the order passed by the Assistant Settlement Officer, Tiruvannamalai. Subsequently, A1 had filed a petition before this Court, on the strength of the order obtained from A2, seeking direction to the Tahsildar Sriperumbudur Taluk for issuing patta for the subject land. This Court by an order dated 07.04.2004 in W.P.No.28923 of 2004, directed the then Tahsildar, Sriperumbudur Taluk to consider the representation of the petitioner and to pass orders in accordance with law, within a period of four weeks from the date of receipt of the order.

7. Thereafter, A3 had subdivided the land comprised in S.No.310/1 into S.No.310/37 to an extent of 7.67 acres in favour of A1 and also issued subdivided patta bearing No.3501. Thereafter, A1 had executed a general Power of Attorney in favour of one V.Vijayakumar for the land to an extent of 7.67 acres in Nemily Village in S.No.310/1, on 31.05.2006 and subsequently, it was cancelled on 31.05.2018. Therefore, A3 had colluded with A1 and A2 and made forged entries in the relevant revenue records of Beemanthangal Village and



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issued patta through his proceedings dated 20.01.2005, thereby caused a huge loss to the Government Exchequer.

8. Therefore, there are specific allegations as against the petitioners to attract the offences under Sections 120B, 465, 468, 471, 477A, 420 and 34 of IPC. Therefore, the FIR is not an encyclopedia and it need not contain all facts and it cannot be quashed in its threshold. This Court finds that the FIR discloses prima facie commission of cognizable offence and as such this Court cannot interfere with the investigation. The investigating machinery has to step in to investigate, grab and unearth the crime in accordance with the procedures prescribed in the Code.

9. It is relevant to rely upon the judgment of the Hon'ble Supreme Court of India passed in ***Crl.A.No.255 of 2019*** dated ***12.02.2019*** in the case of ***Sau.***

Kamal Shivaji Pokarnekar vs. the State of Maharashtra & ors., as follows:-

"4. The only point that arises for our consideration in this case is whether the High Court was right in setting aside the order by which process was issued. It is settled law that the Magistrate, at the stage of taking cognizance and summoning, is required to apply his judicial mind only with a view to taking cognizance of the offence, or in other words, to find out whether



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a prima facie case has been made out for summoning the accused persons. The learned Magistrate is not required to evaluate the merits of the material or evidence in support of the complaint, because the Magistrate must not undertake the exercise to find out whether the materials would lead to a conviction or not.

5. Quashing the criminal proceedings is called for only in a case where the complaint does not disclose any offence, or is frivolous, vexatious, or oppressive. If the allegations set out in the complaint do not constitute the offence of which cognizance has been taken by the Magistrate, it is open to the High Court to quash the same. It is not necessary that a meticulous analysis of the case should be done before the Trial to find out whether the case would end in conviction or acquittal. If it appears on a reading of the complaint and consideration of the allegations therein, in the light of the statement made on oath that the ingredients of the offence are disclosed, there would be no justification for the High Court to interfere.

.....

9. Having heard the learned Senior Counsel and examined the material on record, we are of the considered view that the High Court ought not to have set aside the order passed by the Trial Court issuing summons to the Respondents. A perusal of the complaint discloses that prima facie, offences that are alleged against the Respondents. The correctness or otherwise of the said allegations has to be decided only in the



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Trial. At the initial stage of issuance of process it is not open to the Courts to stifle the proceedings by entering into the merits of the contentions made on behalf of the accused. Criminal complaints cannot be quashed only on the ground that the allegations made therein appear to be of a civil nature. If the ingredients of the offence alleged against the accused are prima facie made out in the complaint, the criminal proceeding shall not be interdicted."

10. Therefore, this Court is not inclined to quash the FIR in Crime No.12 of 2021 on the file of the first respondent. The first respondent is directed to complete the investigation in Crime No.12 of 2021 and file a final report, within a period of twelve weeks from the date of receipt of a copy of this order.

11. Accordingly, this Criminal Original Petition is dismissed. Consequently, connected Miscellaneous petition is closed.

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Internet : Yes / No
Index : Yes / No
Speaking / Non Speaking order
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To

- 1.The Inspector of Police,
District Crime Branch,
Kanchipuram District.
- 2.The Public Prosecutor
Madras High Court.



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G.K.ILANTHIRAIYAN, J.

mn

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