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Crl.O.P.No.26087 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.11.2023

CORAM:

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

Crl.O.P.No.26087 of 2021

A.Palaniammal,
Special D.R.O.,
Warehousing Corporation,
Chennai.

...Petitioner

Vs.

1. The Inspector of Police,
District Crime Branch,
Chengalpattu.
2. The Revenue Divisional Officer
cum Authorised Officer,
Land Reforms,
Tambaram
(R2 impleaded as per order in
03.02.2022 in Crl.M.P.No.1225/2022
in Crl.O.P.No. 26087/2021)

... Respondents

Prayer: Criminal Original petition filed under Section 482 of Code of Criminal Procedure, to quash the FIR registered in Crime No.12 of 2020 as against the petitioner herein on the file of the District Crime Branch, Chengalpattu.

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



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ORDER

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This petition has been filed to quash the FIR registered in Crime No.12 of 2020 on the file of the first respondent Police for the offences under Sections 120B, 477A, 420 r/w. 34 of IPC, as against the petitioner.

2. There are totally three accused in which the petitioner is arrayed as A2. The case of the prosecution is that the petitioner, while she was working as Assistant Commissioner, Land Reforms, Villupuram, she along with other two revenue officials indulged in illegal and irregular assignment orders and creating false documents by converting, Anadheenam lands at Thazhambur Village, Thiruporur Taluk to Ryotwari lands and assigned pattas to several individual, thereby committing fraud on the government. Hence, as per the proceedings of the Commissioner of Land Administration dated 27.07.2020, the authorised officer for land reforms, Tambaram, Chengalpet District had lodged the present complaint.

3. The learned counsel appearing for the petitioner submitted that on the complaint lodged by the second respondent, the first



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respondent registered FIR in Crime No.12 of 2020, for the offences under Sections 120B, 477A, 420 r/w. 34 of IPC. He further submitted that one Perumalswami Reddy had purchased a land ad measuring 626.72 acres in the Court auction and the sale certificate was issued in his favour. In the execution proceeding, he had taken delivery of possession of land. The said land situated at Thazhampur Village. His brothers are Govindarajalu Reddy and Ethirajalu Reddy. The said village was an inam village and during 1961 Ryotwari settlement was introduced in the said village. It was taken over by the government under the Act 26/48 viz., the Tamil Nadu Estate (Abolition & Conversion into Ryotwari) Act, 1948.

3.1. He further submitted that on 14.03.1962, there was a partition among the three brothers in which the subject lands were allotted to C.E.Reddy. However, patta was not granted to them for the said lands. As per the report submitted by the Assistant Settlement Officer, Thiruvannamalai, one C.E.Sathyanarayana Reddy S/o. C.E.Reddy claimed patta for the said land. By G.O.Ms.No.239 Revenue Department dated 19.03.1996, the delay for seeking patta was condoned, and direction was issued to consider his claim for issuance of patta under G.O.Ms.No.1300, Revenue Department, dated 30.04.1971. He claimed



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patta for the land which was allotted to him and also for anadhinam lands.

3.2. On the basis of the direction given by the Government, the said Sathyanarayana Reddy was granted patta by the District Revenue Officer, Kanchipuram. Being aggrieved by the grant of patta in favour of Sathyanarayana Reddy, his mother and two sisters along with another brother filed appeal before the Special Commissioner and Commissioner of Land Administration, Chepauk, Chennai, for issuance of patta to them. The Special Commissioner had investigated their right and title over the property and by an order dated 25.09.1998 granted patta to them. Further the said order was not challenged before the any Court of law and it become final and conclusive. While being so, the government passed order in G.O.Ms.No.164 Revenue Department dated 23.03.2000, canceling G.O.Ms.No.239 Revenue Department dated 19.03.1996, as though public interest arose and patta should not be granted.

3.3. Therefore, the legal heirs of C.E.Reddy challenged G.O.Ms. No.164 dated 23.03.2000, before this Court in W.P.Nos.6165, 6525 & 7346 of 2000 and all the writ petitions were allowed by this Court by an



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order dated 13.05.2003 and the G.O.Ms.No.164 dated 23.03.2000 was cancelled. Aggrieved by the same, the Government filed appeal in W.A.Nos.2785 to 2787 of 2003 and the same was also dismissed on 27.06.2004. Thereafter on 07.12.2006, the government passed order in G.O.Ms.No.794, thereby ordered to cancel G.O.Ms.No.239 Revenue Department dated 23.03.2000 and restored the G.O.Ms.No.794, Revenue Department dated 19.03.1996. In the said G.O.Ms.No.794, the order passed by the Special Commissioner and Commissioner of Land Administration was also confirmed.

3.4. Thereafter, the petitioner reassigned the lands in favour of individual as follows :-

S. No.	Name of the Assigned person	Survey Number	Extent in Acres	Name of reassignee
1.	1. Manikandan 2. Syed V Bucker	167/2	3.00	Lakshmi Narayanan
2.	1. Mohanrajan 2. Sankar	166/1	3.00	AK Henry Daniel
3.	1. Gopalkrishnan 2. Arul Kumar	168/2	3.00	Muruganandam
4.	1. Thiruselvam 2. Mukundan	168/2	3.00	Kalidass
5.	1. Jose 2. Annadurai	165/1	3.00	Rathnaraj



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S. No.	Name of the Assigned person	Survey Number	Extent in Acres	Name of reassignee
6.	Chinnadurai	171/4	3.00	GR Vasanthakumar
7.	Maria Wilson	166/3	3.00	Kannan
8.	1. Muthusamy 2. Syed V Bucker	167/3	3.00	Muruganandam
9.	Ganesan	168/1	3.00	Suresh Salamon
10.	Maria Johnson	166/2	3.00	Chandraprakash
11.	Narayanasamy	169/4	3.00	V Kumaran
12.	1. Thilagar 2. Narayanasamy	170/4	3.00	V Promod Kumar
13.	1. Mekala 2. Vinayagam 3. Srinivasan	170/1 171/1	3.00 2.00	V.Raghu
	Total		41.00 Acres	

The said proceedings are not challenged. The surplus land declared as per order dated 23.10.2008 was intact. The surplus lands are at the disposal of the government and accordingly assignment proceedings were initiated. The land for which assignment made by the petitioner was not anadhinam but it was the private land of C.E.Reddy family members. Therefore, the petitioner never committed any offence as alleged by the prosecution.

4. On perusal of the counter affidavit filed by the first respondent revealed that the petitioner along with two other were



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indulged in illegal and irregular assignment orders, creating the false documents by converting Anadheenam lands at Thazhambur Village, Thiruporur Taluk to Ryotwari lands and assigned pattas to several individuals, thereby committed fraud on the government and cause a wrongful loss to the government. Subsequent by the proceedings dated 27.07.2020, the Commissioner of Land Administration, the Collector of Chengalpet District has directed the Revenue Divisional Officer, Tambaram to initiate criminal action against the erred land reforms government official viz., the petitioner and two others officials. By the said proceedings, the order of assignment was cancelled and reconverted the same as Anadheenam land in the revenue records.

5. Heard the learned counsel appearing on either side and perused the material placed before this Court.

6. On perusal of records revealed that one Perumalsamy Reddy was the head of joint family. He purchased 626.72 acres of lands in Court auction and sale certificate was issued to him in O.S No.279 of 1921 on the file of District Munsif Court, Chengalpattu and he filed execution petition in E.P.No.298 of 1929 and took delivery of possession of lands



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situated at Thazhambur village. His brothers are Govindarajulu Reddy and Ethirajulu Reddy and the said Thazhambur village was "INAM" village. During 1961, Ryotwari settlement was introduced in the village. The village was taken over by the Government under the Act 26/48 viz., The TamilNadu Estate (Abolition & Conversion into Ryotwari) Act 1948, on 14.03.1962.

7. It is seen that there was partition among the three brothers in which subject lands were allotted to C.E.Reddy. When the village was taken over under above the Act and during settlement operation, patta was not granted to them for the lands in Thazhambur village. Therefore, they were recorded as Adheenam by the settlement department in the enquiry conducted for issue of patta under Act 26/1948. It is further submitted that in respect of lands claimed by C.E.Reddy, the following facts were found in the report of Assistant settlement officer, Thiruvannamalai for which patta was granted.

- a) Anadheenam-332.11 Acres
- b) Promboke - 90.48.Acres
- c) Patta in the name of others - 152.75 Acres
- d) Unclassified - 34.27 Acres
- e) Patta in the name of Perumalsamy Reddy - 17.11 Acres



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8. It is further submitted that C.E.Sathyanarayana Reddy, S/o C.E.Reddy, claimed patta for the above lands before the Government under outside the scope of abolition Act. There was delay in claiming patta by him. On 19.03.1996, G.O Ms.No.239 Revenue Department was passed by the Government and the delay in claiming patta was condoned. Direction was issued to consider his claim for issuance of patta under G.O.Ms.No.1300 Revenue Department dated 30.04.1971. The said Sathyanarayana Reddy claimed patta for the above lands including for Anadheenam lands.

9. Further on the basis of direction given by the Government, Patta was granted to Sathyanarayana Reddy by District Revenue Officer, Kanchipuram for 15.000 std Acres in Rc 30281/1997/N2. Challenging the grant of patta to Sathyanarayana Reddy, his mother C.Sulochana, two sisters Samyuktha Paramahamsam and Lakshmi Banu and brother Suryanarayana had filed appeal before the Special Commissioner and Commissioner of Land Administration, Chepauk, Chennai for issue of patta to them for the above lands. The Special Commissioner investigated their right and title to the above lands and ultimately passed order in



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Proceeding No.K3/17322/98 dated 25.09.1998 and granted patta to them. Each member in the family of C.E.Reddy was given patta for 15.000 Std Acres.

10. It is curious to note that the property worth Rs.137 crores of government land were fraudulent assigned to individual through issuance of patta by the government officials viz., the petitioner and other two revenue officials. Hence they caused loss of Rs.137 Crores to the government of Tamilnadu and the act committed by the said government officials for their personal benefits. Hence the order passed by the said government officials may be probed by the suitable official of vigilance and anti corruption of being loss incurred to the government and government official involvement.

11. Further, there are materials to constitute the offences under Sections 120B, 477A, 420 r/w. 34 of IPC. It is seen from the First Information Report that there are specific allegations as against the petitioner to attract the offence, which has to be investigated in depth. Further the FIR is not an encyclopedia and it need not contain all facts and it cannot be quashed in the threshold. This Court finds that the FIR



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discloses *prima facie* commission of cognizable offence and as such this

Court cannot interfere with the investigation. The investigating machinery has to step into investigate, grab and unearth the crime in accordance with the procedures prescribed in the Code.

12. In this regard, 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 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.



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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 Trial. At the initial stage of issuance of*



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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."

13. In view of the above discussion, this Court is not inclined to quash the First Information Report and the Criminal Original Petition stands dismissed.

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Internet: Yes

Index : Yes/No

Speaking/Non Speaking order

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G.K.ILANTHIRAIYAN. J.

rts

To

1. The Inspector of Police,
District Crime Branch,
Chengalpattu.
2. The Revenue Divisional Officer
cum Authorised Officer,
Land Reforms,
Tambaram.
3. The Public Prosecutor,
Madras High Court,
Chennai.

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