



Crl.O.P.No.13765 of 2017

THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.11.2023

CORAM:

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

Crl.O.P.No.13765 of 2017

and

Crl.M.P.Nos.8842 & 8843 of 2017

- 1) A.Ramasamy
- 2) P.Dhanalakshmi
- 3) K.C.Ponnusamy

... Petitioners

Vs

1. State Rep. by
The Inspector of Police,
Central Crime Branch,
Tirupur,
Tiruppur District.
(Cr.No.30 of 2011)

2. Rasappa Gounder

... Respondents

PRAYER: Criminal Original Petitions filed under Section 482 Cr.P.C. to call for the entire records concerned in C.C.No.965 of 2017 on the file of the Judicial Magistrate-IV, Tiruppur, Tiruppur District and quash the same.

For Petitioners

: Mr.C.Prakasam



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For Respondent 1 : Mr.L.Baskaran
Government Advocate (Crl.Side)

For Respondents 2 : Mr.N.Krishna Kumar for
M/s.Sarvabhauman & Associates

ORDER

This Criminal Original Petition has been filed to quash the proceedings in C.C.No.965 of 2017 on the file of the learned Judicial Magistrate No.IV, Tiruppur, Tiruppur District thereby taken cognizance for the offences under Sections 120(b),419,420,423,467,468,471,197,209 and Sec.82 of Registration Act, 1908.

2. The case of the prosecution is that as per the partition made between Late.Kaliappagounder and Late.Palaniammal on 21.03.1962 vide document No.464/1962 of Tiruppur Joint 2 RO, "A" Schedule of property consisting of SF.No.583/2-1.51 acres, SF.No.584/2-0.09 acres, SF.No.584/1-0.77 acres, SF.No.581/3-0.15 acres, SF.No.633-1.49 acres belongs to M.Kaliappagounder. "B" schedule property consisting of SF.No.583/2-2.40 acres, SF.No.584/2-0.04acres, SF.No.584/1-1.39 acres, SF.No.633 -2.23 acres belongs to defacto-complainant. "C" Schedule of



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property consisting of SF.No.583/2-0.31acres, SF.No.583/1-0.50 acres, SF.No.581/3-0.48 acres, SF.No.633-0.74 acres of Veerapandi Village, Tiruppur belonged to M.Palaniammal and her minor son Palanisamy. The land in SF.No.633 were entirely sold by all the parties and remaining Survey Field land has been retained by legal heirs of all the parties. The defacto-complainant had entitled a land of 3.83 acres in the above mentioned SF.Nos.583 & 584 and Patta/Chitta stand in the name of defacto-complainant. In these circumstances, one Ramasamy (A2) created a forged Patta Book No.138552 and 139540 in favour of his mother Nachammal (A1) and sold the said land to A.C.Govindasamy (A3) and V.K.P.Sakthivel (A4) vide document No.276/2008 of Nallur SRO, Tiruppur District. In the said sale, Accused No.2,5 and 6 are the witnesses. Thereafter, subsequent purchaser i.e., Accused No.3 and 4 were added their name in the revenue records and trespassed into the land and abused the witnesses. Hence, the complaint.

3. In this regard, the first respondent registered FIR in Crime No.30 of 2011. After completion of investigation, they filed a final



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report for the offences under sections 120(b), 419, 420, 423, 467, 468, 471, 197, 209 and Sec.82 of Registration Act, 1908.

4. The learned counsel for the petitioner submitted that the 2nd respondent is close relative of the 1st petitioner. The 2nd petitioner is the daughter of the 1st petitioner and the 3rd petitioner is the husband of the 2nd petitioner. The 1st petitioner's mother Nachiammal's grandfather Palani Gounder owned the subject land. He had four sons. He along with his sons partitioned the said property by way of partition deed dated 24.07.1918 for land to an extent of 15.66 ^{1/2} acres. After his life time his share will go for other three sons except the 2nd respondent. Even prior to the said partition deed, Ramasamy Gounder executed a WILL in favour of his son Muthusamy Gounder and daughter Natchiammal. Accordingly, being the son of said Natchiammal, he derived the title over the property. On the strength of the WILL, the defacto-complainant filed a suit in OS.504 of 1995 before the Hon'ble District Munsif Court, Tiruppur for declaration cum Permanent Injunction and the same was decreed by judgement and decree dated 25.10.2007. Therefore, no offence is made out as against the petitioners.



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5. Heard, the learned counsel appearing on either side.

6. On perusal of the prosecution revealed that the petitioners had fabricated the WILL, as if the 2nd respondent had executed WILL in favour of the 1st accused mother and also filed a suit on the strength of the fabricated WILL. They obtained decree in their favour and grabbed the property. Now the 2nd respondent died. Even then his legal heirs are entitled to six acres of land comprised in SF 583/2-2.40 acres, SF.No.584/2-0.04acres, SF.No.584/1-1.39acres, SF.No.633-2.23 acres of land in Veerapandi Village, Tiruppur by virtue of partition deed registered in Document No.464/1962. After the WILL, some of the land comprised in S.F.633-2.23acres, they are entitled to land admeasuring 3.83 acres in the SF.Nos.583 & 584 in Veerapandi Village. However all the accused conspired together, created a forged WILL dated 09.10.1917, as if the 2nd respondent executed WILL in favour of one Natchiammal and Muthusamy Gounder.



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7. In fact the said WILL was sent for handwriting expert opinion from the finger print bureau, Chennai. The thumb impression put by the Ramasamy Gounder in the WILL is not the thumb impression of the Ramasamy Gounder. The left thumb impression found in the WILL is not identical with the admitted Left thumb impression of 2nd respondent. There are material of evidence available to attract all the offences as against the petitioners. Now the 1st petitioner also died. Therefore, the charges as against the 1st petitioner alone are abated.

8. In view of the above discussion, this Court is not inclined to quash the proceedings in C.C.No.965 of 2017 in Crime No.30 of 2011 on the file of the learned Judicial Magistrate-IV, Tiruppur, Tiruppur District. The petitioners are at liberty to raise all the grounds before the trial Court. The personal appearance of the petitioners 2 and 3 are dispensed with and they shall be represented by a counsel after filing appropriate application. However, the petitioners 2 and 3 shall be present before the Court at the time of furnishing of copies, framing charges, questioning under Section 313 Cr.P.C. and at the time of passing judgment. The trial



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Court is directed to complete the trial within a period of six months from the date of receipt of copy of this Order.

9. Accordingly, this Criminal Original Petition is dismissed.

Consequently, connected miscellaneous petitions are also closed.

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Internet: Yes

Index: Yes/No

Speaking/Non-speaking order
gvn

To

1) The Judicial Magistrate-IV, Tiruppur,
Tiruppur District

2) The Inspector of Police,
Central Crime Branch,
Tiruppur,
Tiruppur District.

3) The Public Prosecutor,
High Court Madras.



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G.K.ILANTHIRAIYAN, J.

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