



*Crl.Nos.17625 of 2017
& 1432 of 2018*

In the High Court of Judicature at Madras

Reserved on : 06.7.2023	Delivered on : 11.7.2023
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Coram :

The Honourable Mr.Justice N.ANAND VENKATESH

Criminal Original Petition Nos.17625 of 2017
& 1432 of 2018
& all connected pending Crl.M.Ps.

M.Karthe

...Petitioner in
Crl.O.P.No.17625
of 2017

1.Tamilarasu
2.Lalitha
3.Valarmathi

...Petitioners in
Crl.O.P.No.1432
of 2018

Vs

1.State rep.by the Inspector of
Police, Anti Land Grabbing
Special Cell, District Crime
Branch, Salem, Salem District.

2.K.Varadharajan

...Respondents in
both Crl.O.Ps.

PETITIONS under Section 482 of the Criminal Procedure Code
praying to call for the records in C.C.No.99 of 2017 under Sections

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120B, 420, 468, 471 and 506(i) of the Indian Penal Code (for short, the IPC) on the file of the learned Judicial Magistrate, Omalur, Salem District and quash the same in so far as the petitioners are concerned.

For Petitioner in Crl.O.P.No.17625 of 2017	: Mr.M.R.Jothimanian
For Petitioners in Crl.O.P.No.1432 of 2018	: Mr.N.R.Elango, SC for Mr.Ashwin Prasanna
For Respondent-1 in both the Crl.O.Ps.	: Mr.M.Babu Muthu Meeran, Additional Public Prosecutor
For Respondent-2 in both the Crl.O.Ps.	: Mr.V.Raghavachari, SC for Ms.E.Gomathi

COMMON ORDER

These original petitions have been filed by A27, A28, A31 and A32 seeking to quash the proceedings pending in C.C.No.99 of 2017 on the file of the learned Judicial Magistrate, Omalur, Salem District.

2. The second respondent herein gave a complaint before the Superintendent of Police, Salem District, which was forwarded to the first respondent with the following allegations :



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(i) The family of the second respondent had properties for a total extent of 14.75 acres in various survey numbers and A1 to A25 are the relatives and adjacent land holders of the second respondent. It has been alleged that A1 to A25 colluded with A26 to A32 and conspired to grab the property belonging to the second respondent. In furtherance of such collusion, A1, A2 and A16 to A25 executed a sale agreement for a total extent of 9.78 acres including the share of the second respondent to an extent of 2.42 acres in favour of A26 through a document dated 03.8.2007 registered as Doc.No.4966 of 2007 on the file of the Sub-Registrar, Omalur.

(ii) A1 to A26 executed a sale deed to an extent of 8.11 1/4 acres including the share belonging to the second respondent to an extent of 5.19 1/2 acres in favour of A27 through a deed of sale dated 17.9.2007 registered as Doc.No.3679 of 2007 on the file of the District Registrar, Salem West.

(iii) The further allegation that has been made in the complaint was that A1 to A32 demanded the remaining land also from the second respondent and in furtherance of the same, the second respondent was threatened with dire consequences. It was alleged that A27 and A28 along with henchmen trespassed into the property belonging to



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the second respondent and committed theft of gold jewellery and documents and a separate complaint in Cr.No.934 of 2011 on the file of the Inspector of Police, Omalur Police Station was given in this regard.

(iv) Based on the complaint given by the second respondent, a first information report came to be registered by the first respondent in Cr.No.25 of 2011, in which, the petitioners have been arrayed as A27, A28, A31 and A32. On completion of the investigation, a final report was filed and the Court below took cognizance of the final report for the offences under Sections 120B, 468, 471, 420, 506(i) read with 120B of the IPC. The said proceedings have been put to challenge by the petitioners in these petitions.

3. Heard the respective learned counsel appearing for the petitioners, the learned Additional Public Prosecutor appearing for the first respondent and the learned Senior Counsel appearing on behalf of the second respondent.

4. Th second respondent is claiming right over the property on the ground that he has a preferential right to acquire the property and



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in other words, the right of pre-emption. In fact, the second respondent and another filed a civil suit against A1 to A27 and others before the Principal District Court, Salem in O.S.No.156 of 2017 praying for a preferential right to acquire the property and to exercise his right of pre-emption. In the said suit, except the properties involved in this matter, all the other properties were added in the schedule of properties.

5. In so far as A27 is concerned, he purchased the property from A1 to A26 through the sale deed dated 17.9.2007 registered as Doc. No.3679 of 2007. The allegation made against A27 was that he purchased the properties to an extent of 8.11 1/4 acres, which also includes the share of the second respondent.

6. A28 along with A27 was said to have threatened the second respondent to part with the remaining properties also. A31 is the mother of A28 and A32 is the sister of A28. The general allegation made against A28, A31 and A32 was that they supported A27.



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7. The main crux of the grievance of the second respondent relates to the sale deed executed in favour of A27.

8. In the considered view of this Court, there is a valid sale deed executed in favour of A27 and if, according to the second respondent, he has a pre-emptive right and is entitled for an extent of 5.19 1/2 acres out of 8.11 1/4 acres, it can only be agitated before a competent civil court. In fact, the second respondent had realised that he could agitate only before the civil court with regard to other properties, over which, he is claiming pre-emptive right. The same will equally apply for the other property, which had been purchased by A27.

9. Even on a plain reading of the final report along with the available materials, no offence of cheating or forgery is made out against A27. In other words, the execution of the sale deed in favour of A27, per se, does not constitute an offence and if at all the second respondent has any right over the property, it can only be agitated before the competent civil court, which will also include questioning the sale deed executed in favour of A27.



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10. The further allegation made in the complaint, in order to rope in the petitioners, is that the second respondent was threatened to sell the remaining properties also. Except for the ipse dixit of the second respondent, there is absolutely no material to substantiate the offence of criminal intimidation and no offence is made out under Section 506(i) of the IPC. There is also no material available to substantiate the offence of criminal conspiracy and no offence is made out under Section 120B of the IPC.

11. It was also brought to the notice of this Court that there were some typographical errors contained in the sale deed dated 17.9.2007 and the same were rectified by executing a rectification deed dated 06.9.2011. This was done after the complaint was given by the second respondent and the typographical mistakes in the sale deed dated 17.9.2007 were corrected.

12. An anticipatory bail petition came to be filed by A27 and during the pendency of the anticipatory bail petition, interim bail was granted with a condition that A27 should execute a deed of rectification in favour of the second respondent. Only pursuant to that,



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the rectification deed dated 06.9.2011 came to be executed and all the corrections were carried out. This rectification deed was taken into consideration by this Court and final orders were passed in the anticipatory bail petition in Crl.O.P.No.20129 of 2011 dated 28.9.2011 making the bail absolute. In spite of the same, the charge sheet came to be filed before the Court below.

13. In the counter affidavit filed by the first respondent, the following justification has been given at paragraph 11, which is extracted as hereunder :

"It is submitted that the petitioner/accused (A-27) mentioned in his petition in paragraph Nos.5 and 6, the mistakes in the sale deed documents in survey No. 14/3A (1.65 acres, இனம் 1) and 59/1B (3.46 1/2 acres, இனம் 10) was already rectified vide document No.8467 of 2011 dated 06.9.2011, hence, the allegation is not made out against him. But, the accused (A-27) grabbed the complainant's another survey Nos. ie. 14/3C (5 H.P. electricity, 1/3 பாகம் இனம் 2), 50/6A (4 cent 3/4 இனம் 4), 51/4 (5 cent, இனம் 7), has not rectified by the petitioner/A-27 and grabbed by him."

14. On carefully going through the materials placed, this Court has no doubt in its mind that a dispute, which is purely civil in nature,



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is attempted to be given a criminal colour. If really the second respondent was aggrieved by the sale deed dated 17.9.2007 executed in favour of A27 and the subsequent rectification deed dated 06.9.2011, he has to agitate only before the competent civil court. The continuation of the proceedings as against the petitioners is a clear abuse of process of court, which requires interference of this Court in exercise of its jurisdiction under Section 482 of the Criminal Procedure Code.

15. In the result, the proceedings in C.C.No.99 of 2017 on the file of the learned Judicial Magistrate, Omalur, Salem District are quashed in so far as the petitioners are concerned and the above criminal original petitions are allowed. Consequently, the connected Crl.MPs. are closed.

11.7.2023

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N.ANAND VENKATESH,J

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To

- 1.The Inspector of Police, Anti Land Grabbing Special Cell,
District Crime Branch, Salem, Salem District.
- 2.The Judicial Magistrate, Omalur, Salem District.
- 3.The Public Prosecutor, High Court, Madras.

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