



WEB COPY



Crl.O.P.(MD)No.930 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved On : **15.03.2023**

Delivered on : **07.06.2023**

CORAM:

THE HONOURABLE MRS.JUSTICE **R.THARANI**

Crl.O.P.(MD) No.930 of 2022

Vijaya Lekshmi

... Petitioner/accused No.16
Vs.

1.The State of Tamil Nadu,
Rep. by The Inspector of Police,
District Crime Branch (ALGSC),
Dindigul, Dindigul District.
(Crime No.8 of 2020)

... 1st Respondent/ Complainant

2.Rani

... 2nd Respondent/Defacto complainant

PRAYER: Criminal Original Petition is filed under Section 482 of Cr.P.C, to call for the First Information Report in Crime No.8 of 2020, dated 09.07.2020, on the file of the first respondent police and to quash the same as illegal and devoid of merits in respect of this petitioner is concerned.

For Petitioner : Mr.S.Muthuvinayagam

For Respondents : Mr.M.Sakthikumar
Government Advocate (Crl.Side)for R1

: Mr.T.Sakthikumaran for R2



WEB COPY

Crl.O.P.(MD)No.930 of 2022



ORDER

This petition is filed to quash the F.I.R in Crime No.8 and 2020, on the file of the first respondent police.

2. The case of the prosecution is that the property originally belong to Kamatchi Gounder. The said Kamatchi Gounder was having two wives. The first wife - Kamayiammal was having three children, Kamatchi, Palanisamy, Seniammal. The said son Kamatchi was having a wife-Kanniyammal and three children, viz., Kathiresan, Selvi and Radha. Kamatchi Gounder's second wife - Solayi was having a son- Chelladurai, and a daughter - Rani. Chelladurai died as a divorcee and without any issues.

3. On 14.12.1981 and on 11.07.1983, Chelladurai purchased some properties. The sister of Chelladurai, viz., Rani is the sole legal heir of Chelladurai. Kathiresan-A1 S/o. Kamatchi forged a partition deed and registered the same before the Sub- Registrar office, without the knowledge of Rani, who was the sister of Chelladurai. The children of Kamatchi and Kanniamal, by name, Kathiresan, Selvi, Radha and Palanichamy executed a forged partition deed on 02.12.2019 and



registered the same in the Sub Registrar Office as Document No.4270/2019 and the document was written by A1. On the basis of the forged partition deed, patta was transferred. Rani filed a suit in O.S.No.184 of 2018, to declare herself as the legal heir of the deceased - Chelladurai and the suit was decreed on 22.07.2019, having the knowledge about the case the Thasildar and the village administrative officer colluded with the other accused transferred the patta from the name of Chelladurai and issued patta in the name of A1.

4. On the side of the petitioner, it is stated that the petitioner is A16 in the case and that he is no way connected with the alleged offence. The petitioner is working as a Teacher in a Government School. The defacto complainant is her relative. The petitioner's grandfather had two wives. The petitioner's father and others were born to the first wife of the petitioner's grand father. The second respondent and One Chelladurai were born to the second wife of the petitioner's grand father. Chelladurai was a divorcee. The petitioner is the daughter of A4, namely, Palanichamy. Her father and other accused sold the properties to a third party and at their request, the petitioner went to the Sub Registrar, Nilakottai and she signed as a third witness in the witness column. All these activities took place at the premises of the Sub Registrar office,



Nilakottai. She never stepped into the office. The other two persons entered into the office and their identity was verified. The petitioner has not committed any offence and she is no way connected with this case. There is no overt act attributed against the petitioner. The case is civil in nature and prayed the F.I.R to be quashed.

5. It is further stated that the petitioner did not join hands with the other accused, her place of residence is Madurai, the occurrence took place in Nilakottai. The address mentioned by the police in the F.I.R is wrong. The petitioner did not dishonor, she has not made an affidavit or deliver any property. She has not committed any forgery and she has not used a forged document as genuine and prayed the F.I.R to be quashed.

6. On the side of the defacto complainant, it is stated that the petitioner-A16 is the daughter of A4. She has signed the sale deed as a witness, she is well aware on the fraudulent transaction and that those, who involved in an offence, with a motive will be liable to be prosecuted.

7. On the side of the defacto complainant, a judgment of the Hon'ble Supreme Court reported in **2017-9-SCC-641 (Parbatbhai Aahir**



@ **Parbatbhai Karmur V. State of Gujarat**) is cited, wherein, it is stated as follows:-

17. Bearing in mind the above principles which have been laid down in the decisions of this Court, we are of the view that the High Court was justified in declining to entertain the application for quashing the First Information Report in the exercise of its inherent jurisdiction. The High Court has adverted to two significant circumstances. Each of them has a bearing on whether the exercise of the jurisdiction under Section 482 to quash the FIR would subserve or secure the ends of justice or prevent an abuse of the process of the court. The first is that the appellants were absconding and warrants had been issued against them under Section 70 of the Code of Criminal Procedure, 1973. The second is that the appellants have criminal antecedents, reflected in the chart which has been extracted in the earlier part of this judgment. The High Court adverted to the modus operandi which had been followed by the appellants in grabbing valuable parcels of land and noted that in the past as well, they were alleged to have been connected with such nefarious activities by opening bogus bank accounts. It was in this view of the matter that the High Court observed that in a case involving extortion, forgery and conspiracy where all the appellants were acting as a team, it was not in the interest of society to quash the FIR on the ground that a settlement had been arrived at with



WEB COPY



Crl.O.P.(MD)No.930 of 2022

the complainant. We agree with the view of the High Court.

18. The present case, as the allegations in the FIR would demonstrate, is not merely one involving a private dispute over a land transaction between two contesting parties. The case involves allegations of extortion, forgery and fabrication of documents, utilization of fabricated documents to effectuate transfers of title before the registering authorities and the deprivation of the complainant of his interest in land on the basis of a fabricated power of attorney. If the allegations in the FIR are construed as they stand, it is evident that they implicate serious offences having a bearing on a vital societal interest in securing the probity of titles to or interest in land. Such offences cannot be construed to be merely private or civil disputes but implicate the societal interest in prosecuting serious crime. In these circumstances, the High Court was eminently justified in declining to quash the FIR which had been registered under Sections 384, 467, 468, 471, 120-B and 506(2) of the Penal Code.”

8. On the side of the prosecution, it is stated that only on the direction of this Court, the case in Crime No.8 of 2020 was registered. Chelladurai was working as a Government Teacher and he died without



Crl.O.P.(MD)No.930 of 2022

any issues. His wife was already divorced, he purchased three properties, during his life time and he died on 25.08.2019. After his death his sister -Rani filed a civil suit and she got LR certificate, on 22.07.2020. A1 to A4 are the LRs of the first wife of the defacto complainant's father, that is half brothers and half sisters of the deceased. They have no right over the property, but, they executed partition deed, as if the property of Chelladurai was an ancestral property and they changed the patta in their name.

9. It is seen that the petitioner is A16 in the case. The petitioner is the daughter of A4, she has signed the subsequent sale deed as a witness, she has admitted that she has signed the document. Whether the petitioner has any knowledge about the earlier document can be decided only after the completion of the trial.

10. In the above circumstances, this petition is dismissed.

NCC : Yes/No
Index : Yes/No
Ls

07.06.2023



WEB COPY



Crl.O.P.(MD)No.930 of 2022

R.THARANI. J.

Ls

To

- 1.The Inspector of Police,
District Crime Branch (ALGSC),
Dindigul, Dindigul District.
2. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

Crl.O.P.(MD)No.930 of 2022

07.06.2023