



Crl.O.P(MD).No.9860 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved On : 18.07.2023

Delivered On : 11.08.2023

CORAM:

THE HONOURABLE MR. JUSTICE P. DHANABAL

Crl.O.P(MD).No.9860 of 2020

and

Crl.M.P.(MD)No.4572 of 2020

1.Bakkiyaraj
2.Jeyaraman

...Petitioners

Vs

1.The State Rep. by its,
Inspector of Police,
Thogamalai Police Station,
Kulithalai Taluk,
Karur District.

2.Bommakkal

...Respondents

PRAYER: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, praying this Court to call for the records relating to the FIR in Crime No.118 of 2019 on the file of the first respondent Police and quash the same as illegal in so far as the petitioners concern.

For Petitioners	: Mr.A.N.Ramanathan
For 1 st Respondent	: Mr.M.Sakthi Kumar
	Government Advocate (Crl. Side)
For 2 nd Respondent	: No Appearance



CrI.O.P(MD).No.9860 of 2020

ORDER

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This petition is filed to quash the FIR in Crime No.118 of 2019 on the file of the first respondent.

2.According to the petitioners, the second respondent herein lodged a false complaint alleging that on 25.05.2019, the deceased Periyabomma Naicker with malafide intention to grab the properties of the defacto complainant, got patta to the lands and mutated to their name by creating forged documents. That in the enquiry initiated at the instance of the defacto complainant before the Tahsildar, Kulithalai and the Revenue Divisional Officer, Kulithalai, the patta procured by the first petitioner was cancelled by the proceedings in Na.Ka.No.1/4658/2018. Further the first petitioner got the name of the deceased Periyabomma Naicker included in the family card by forging the signature of Kulithalai Taluk Supply Officer. On 26.11.2013, the defacto complainant become aware of the said fraudulent act by getting information from the RTI Act from Taluk Supply office, Kulithalai. The said information obtained by the defacto complainant from the Taluk Supply Officer confirmed the said fact that the petitioners and deceased Periyabomma Naicker obtained family card by forging the signature of Taluk Supply Officer, Kulithalai. On 22.02.2018, the defacto complainant lodged a complaint



Crl.O.P(MD).No.9860 of 2020

against the petitioners with the first respondent police about the illegal acts of the petitioners and the first respondent have not responded and thereafter, the defacto complainant filed Crl.O.P.(MD)No.5447 of 2018 seeking direction as against the first respondent police for conducting enquiry into the complaint of the defacto complainant. Even after the order passed by this Court, the first petitioner trespassed into portion of land where the defacto complainant was constructing house and threatened to stop the construction and also caused criminal intimidation. The above said claim is false one. In fact, the land situated in S.F.No.258/1B, 265/1A1, 265/1A7, 267/1B and 271/11, Rachander Thirumalai Village, Kulithalai Taluk, Karur District originally belonged to Thoppa Naicker and his son namely Periyabomma Naicker.

3.In the oral partition arrangements, the said property was allotted to the deceased Periyabomma Naicker. In pursuant to the oral arrangements, the Periyabomma Naicker was in peaceful enjoyment of the properties. The Revenue Department has also granted separate patta in the name of deceased Periyabomma Naicker. While the fact are being so, the defacto complainant falsely and fraudulently represented before the Revenue authorities alleging that the deceased Periyabomma Naicker died long back and procured patta in her name with regard to the above said properties. Further in the year 2012, the defacto complainant filed a suit in O.S.No.95 of 2012 on the file of the



Crl.O.P(MD).No.9860 of 2020

Sub Court, Kulithalai by projecting that the deceased Periyabomma Naicker

was a man of unsound mind and sought for a partition and the suit was withdrawn. Thereafter, the said Periyabomma Naicker came to know that the defacto complainant illegally transferred the patta in her name and then he filed an appeal before the Revenue Divisional Officer for cancellation of the patta. After enquiry, the Revenue Divisional Officer, Kulithalai passed an order on 27.12.2013 rejecting the appeal preferred by the said Periyabomma Naicker. Against that order, the said Periyabomma Naicker preferred a revision before the District Revenue Officer, Karur and the same was allowed and directed the defacto complainant to seek appropriate remedy before the competent Court by an order dated 14.07.2014.

4.While the facts are being so, the defacto complainant filed a false complaint as against the petitioners and the first respondent registered a case in Crime No.118 of 2019 for the offences under Sections 468, 471, 420, 323 and 506(ii) of IPC. The civil dispute was converted into criminal case and it is pure abuse of process of law. Hence, FIR is liable to be quashed.

5.No counter was filed on the side of the respondents.

6.The learned counsel appearing for the petitioners would contend that



Crl.O.P(MD).No.9860 of 2020

the petitioners and the second respondent are close relatives. There is a dispute with regard to land situated in Rachander Thirumalai Village. Already there was a dispute pending between the parties with regard to transfer of patta in the properties situated in the above said village. In order to harass the petitioners, the second respondent had given complaint before the first respondent and the first respondent registered FIR and Crime No.118 of 2019 for the offence under Sections 468, 471, 420, 323 and 506(ii) of IPC. No such occurrence was taken place. Only in order to harass the petitioners, the second respondent has given a false complaint alleging that the petitioners created false documents and wrongly included the name of the deceased Periyabomma Naicker. Even according to complaint, there is no any enquiry made by the Civil Supply Officer with regard to the alleged inclusion of the name in family card and based on the information got by the petitioners through RTI Act, she filed this complaint. Even according to the averments in the complaint, no *prima facie* case is made out as against the petitioners. Therefore, the FIR is liable to be quashed.

7.The learned Government Advocate appearing for the first respondent would contend that the second respondent has given a complaint before the first respondent. Based on the complaint, the first respondent registered FIR in Crime No.118 of 2019 and the same is pending. The case is under initial stage



Crl.O.P(MD).No.9860 of 2020

and elaborate investigation is required in this case and at this stage, now this petition is liable to be dismissed.

8. None appears on behalf of the second respondent.

9. This Court heard both sides and perused materials available on records.

10. On perusal of the records, it is seen that there is a civil dispute between the parties with regard to transfer of patta for the disputed properties and already revenue authorities have passed orders with regard to name transfer of patta and further the District Revenue Officer advised the defacto complainant to approach the civil Court for establishing the right. Thereafter, the defacto complainant filed a complaint before the first respondent stating that all the accused created false and forged documents and based on the revenue records, the petitioners obtained patta by forging documents and subsequently the defacto complainant gave a request before the revenue Officials and the Revenue Authorities cancelled the patta. Therefore the defacto complainant is the owner of the property. But in fact on the perusal of the records, they revealed that the complainant had given petition before the

Tahsildar, Kulithalai for name transfer in patta to the disputed property and



Crl.O.P(MD).No.9860 of 2020

the same was allowed and patta was transferred in the name of defacto complainant, thereafter the said order was challenged by the father of first petitioner herein through appeal before the Revenue Divisional Officer, Kulithalai and the same was dismissed. As against the said dismissal order of the above said appeal order passed by the District Revenue Officer, Kulithalai, a revision was filed before the District Revenue Officer, Karur. The District Revenue Officer passed an order by restoring the patta in the name of the deceased Periyabomma Naicker and advised the defacto complainant to approach civil Court for establishing the right over the property. Therefore, as per order passed in revision, the patta was restored in the name of Periyabomma Naicker.

11. But the defacto complainant preferred a complaint by stating that these petitioners created forged documents. The defacto complainant mainly relied on the order passed by the Tahsildar and Revenue Divisional Officer, Kulithalai but the said order was set aside by the District Revenue Officer in the revision. Already Revenue Officials passed orders with regard to the patta and again the petitioner filed complaint by stating that the petitioners have forged patta. Since the Revenue Officials passed order in the revision by restoring the USR Scheme patta standing in the name of the first petitioner's father, the question of creation of forged documents would not arise. The said



Crl.O.P(MD).No.9860 of 2020

revision order passed by the District Revenue Officer by restoring the patta in the name of the first petitioner's father Periyabomma Naicker was suppressed by the defacto complainant.

12.Further the defacto complainant stated in the complaint as if the petitioners included the name of one Periyabomma Naicker in the ration card. There was no complaint made before the Civil Supply Officer with regard to above said inclusion of name in ration card but the defacto complainant obtained information from the Civil Supply Officer and based on that, she filed a complaint stating that the petitioners forged documents. The above said information obtained by the defacto complainant through RTI Act alone is not sufficient to make out the case to take cognizance for the alleged forgery. Already the District Revenue Officer, Karur has passed order restoring the UDR Scheme patta and advised the defacto complainant to approach the civil Court for establishing her right over the property but she failed to approach the civil Court. Per contra she filed W.P.(MD)No.13057 of 2016 by challenging the revision order passed by the District Revenue Officer and the same was suppressed. In view of the above, it is clear that the defacto complainant gave a complaint for the civil dispute and suppressed the material facts and had given a complaint.



CrI.O.P(MD).No.9860 of 2020

13. On perusal of the complaint, it is seen that the alleged assault and causing criminal intimidation are vague and they are bald allegations and on the face of record itself, it shows that the complaint was preferred with regard to civil disputes.

14. The learned counsel appearing for the petitioner has produced a copy of an order passed by this Court in W.P.(MD)No.13057 of 2016 wherein the defacto complainant preferred writ petition challenging the order passed by the District Revenue Officer, Karur dated 14.07.2016 by restoring the original position based on the records. In that order, this Court observed as follows:-

“7. While the petitioner asserts that respondents 4 and 5 impersonated his elder brother and created forged documents, the said assertions are refuted by the private parties. The revenue authorities are not empowered to decide such disputed questions relating to ownership of property or disputes as to whether the fifth respondent is the elder brother of the petitioner. After noticing that the patta had been mutated multiple times based on the applications submitted by the rival parties, the first respondent restored the record to the status as per the UDR. Since the order of the first respondent is not in favour of either the petitioner or respondents 4 and 5 herein and directs the parties to approach the jurisdictional civil court for adjudication of their title disputes, I am of the view that no interference is called for with the order impugned herein.



CrI.O.P(MD).No.9860 of 2020

8. For the reasons set out above, W.P.(MD) No.13057 of 2016 is disposed of by leaving it open to the petitioner to institute appropriate proceedings before the jurisdictional civil court. There shall be no order as to costs. Consequently, the connected miscellaneous petition is closed.”

15.From the above said judgments, it is clear that already this Court advised the defacto complainant to approach the civil Court and District Revenue Officer also passed the same order and the same was also confirmed by this Court. But thereafter this present complaint was given by the same person as against the petitioners.

16.Since there are disputes pending between the parties with regard to land, this complaint was preferred to settle the civil dispute. Since the allegation of the complaint reflected the civil dispute, initiation of criminal proceedings to settle the civil dispute is abuse of process of law and this Court is inclined to quash the FIR.



Crl.O.P(MD).No.9860 of 2020

17.In the result, this Criminal Original Petition is allowed and the FIR

in Crime No.118 of 2019 before the first respondent is hereby quashed.

Consequently, connected miscellaneous petition is closed.

11.08.2023

NCC : Yes/No

Internet : Yes/No

Index : Yes/No

Mrn

To

1.The Inspector of Police,
Thogamalai Police Station,
Kulithalai Taluk,
Karur District.

2.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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Crl.O.P(MD).No.9860 of 2020

P. DHANABAL,J.

Mrn

Crl.O.P(MD).No.9860 of 2020

11.08.2023