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Crl.O.P.(MD)No.11615 of 2020

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.11615 of 2020

and

Crl.M.P.(MD)Nos.5292 of 2020 & 11784 of 2022

1.M.Gopal

2.Puranachandran @ N.Purani Chandra ... Petitioners/ A5 & A6

Vs.

1.The State of Tamil Nadu,

Rep. by The Inspector of Police,

District Crime Branch,

Land Grabbing Special Cell,

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 records pertaining to First Information Report in Crime No.8 of 2020, under Sections 120B, 420, 467, 468 and 471 of I.P.C, dated 09.07.2020, and the report of the first respondent police,



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dated 14.09.2020 against this petitioners/ Additional Accused No.5 & 6, on the file of the first respondent police and to quash the same as against the petitioners.

For Petitioners : Mr.A.Haja Mohideen

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

: Mr.T.Sakthikumaran for R2

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 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. 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.

3. On the side of the petitioners, it is stated that the petitioners are A5 and A6. Only on verification of the partition deed ,on 25.08.2000 and after verifying the patta, in patta No.730 and 1732 and on verification of the property, tax receipts and on instructions from A1 to A4, the first petitioner-A5 write the sale deed, dated 25.05.2019, in respect of the property in Survey No.634/1 with an extend of 1102 ½ sq.ft, in favour of one Meenatchi as document No.1757/2019. The second petitioner - A6 prepared the sale deed, dated 22.05.2019, in respect of the



property in Survey No.634/1 with an extend of 863 ¼ sq ft., to one Vellimalai and the same was registered in Document No.1785/2019. Only based on the records, the petitioners prepared the sale deed. For the past 20 years, there was no question regarding the transaction. There is no overt act attributed against the petitioners and prayed the petition to be allowed.

4. On the side of the defacto complainant, it is stated that the petitioners are document writers and they have to verify the documents in the proper manner, they have to verify the LR certificate, and that they are liable to be prosecuted.

5. 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 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.”

6. 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 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. 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.



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7. On the side of the petitioners, it is stated that there were three houses in the property and the houses were in the name of one K.Palanichamy. The LRs of Chelladurai have filed a suit in O.S.No.115 of 2019 against the defacto complaint and others and the suit is pending and while the suit is pending, the defacto complainant - Rani has filed a suit in O.S.No.184 of 2018, as if she alone is the LR of Late Chelladurai and got decree on 22.07.2019 “behind the back of the truth”. These wording narrated by the petitioners reveals that there may be chance for them have to some connection with the accused A1 to A4.

8. Whether the petitioners are having any connection with A1 to A4 in the commission of the offence can be decided only after trial. Hence, this petition is dismissed. Consequently, connected Miscellaneous Petitions are closed.

NCC : Yes/No
Index : Yes/No
Ls

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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.

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