



WEB COPY



Crl.O.P.(MD)No.11296 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.11296 of 2020
and
Crl.M.P.(MD)Nos.5147 of 2020 & 11789 of 2022

Muthupandi

... Petitioner/accused No.8

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 records pertaining to 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 against the petitioner is concerned as illegal.



Crl.O.P.(MD)No.11296 of 2020

For Petitioner : Mr.K.K.Samy
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 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. 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



Crl.O.P.(MD)No.11296 of 2020

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 petitioner, it is stated that the petitioner, who is a village administrative officer, is A8 in this case. Whenever a document is being registered an application for change of patta in the prescribed format will be submitted. The civil Court decree in O.S.No. 184 of 2018 was not communicated to the Village administrative office. Authenticity of ownership of the land need not be verified by the village administrative officer. The petitioner did not commit any offence as stated in the complaint. The defacto complainant want to give a criminal colour to a civil suit. The respondent police foisted a false case against the petitioner. There is no prima facie case against the petitioner. F.I.R was registered without getting approval from the appointing authority



Crl.O.P.(MD)No.11296 of 2020

under Section 197 of Cr.P.C. The petitioner joined duty on 01.08.2019, but, patta was issued on 02.02.2020 and the petitioner was acquitted in the departmental proceeding. The LR certificate was issued in the name of the defacto complainant, only on 22.07.2019 and the same was not brought to the knowledge of the petitioner. Patta was subsequently cancelled and prayed the F.I.R to be quashed.

4. 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. The petitioner as a village administrative officer has recommended for the transfer of patta. Since there is a stay order, charge sheet could not be filed.



5. On the side of the second – respondent / defacto complainant, it is stated that the father of the defacto complainant was having two wives. The defacto complainant is the daughter of the second wife, she has a brother, by name, Chelladurai, who died issueless and interstate. His wife already divorced him. The defacto complainant is the only LR of the deceased- Chelladurai. But, the half sisters and half brothers through the first wife forged a partition deed, as if Chelladurai participated in the partition deed. The petitioner is a village administrative officer, who has the duty to verify the documents and he has to verify how the petitioner and others are entitled to a partition. The village administrative officer joined with the others and he illegally transferred patta in their names and that he recommended the Thasildar - A7, to issue patta and he is liable to be prosecuted. There is specific overt act attributed against the petitioner and prayed the petition to be dismissed.

6. On the side of the defacto complainant, it is stated that all the accused have a Role in the offence and the involvement of Government Servant, in an offence will have a serious impact on the Society and that they have to be prosecuted. 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.”

7. It is seen that the property belonged to one Chelladurai. The petitioner is A8 in the case. The allegation against A1 to A4 is that they forged a partition deed and with the help of the forged partition deed, they transferred the patta in their names and then, they sold the property to some third persons. Role of the petitioner is that as a village



Crl.O.P.(MD)No.11296 of 2020

administrative officer, without verifying the genuineness of the partition deed, he recommended for the transfer of patta. F.I.R was registered under Sections 120B, 420, 467, 468 and 471 of I.P.C,. The petitioner has not created any forged document that too for the purpose of cheating. There is no possibility for the petitioner to have a knowledge that the partition deed is a forged one. That patta was also cancelled. The LR certificate in the name of the defacto complainant was issued on 22.07.2019. The petitioner has joined duty only on 01.09.2019. If at all the petitioner is liable, he is liable only for negligence of duty.

8. Hence, this Petition is allowed. First Information Report in Crime No.8 of 2020, on the file of the first respondent police, is hereby quashed. Consequently, connected Miscellaneous Petitions are closed.

NCC : Yes/No
Index : Yes/No
Ls

07.06.2023



Crl.O.P.(MD)No.11296 of 2020

WEB COPY

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.



WEB COPY



Crl.O.P.(MD)No.11296 of 2020

R.THARANI. J.

Ls

Crl.O.P.(MD)No.11296 of 2020

07.06.2023