



Crl.O.P(MD).No.12922 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 15.09.2023

CORAM:

THE HONOURABLE MR. JUSTICE P. DHANABAL

Crl.O.P(MD).No.12922 of 2020

and

Crl.M.P.(MD)No. 5888 of 2020

1. Rajan
2. Hema @ Hemaselvi
3. Gandhi Perumal
4. Lenin Raghuraman
5. Harihara Subramanian

...Petitioners

Vs

1. The Inspector of Police
Perumalpuram Police Station
Tirunelveli City
Tirunelveli District

2. Sankaran

...Respondents

PRAYER: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, praying this Court to call for the records in connection with Crime No.742 of 2020 on the file of the Inspector of Police, Perumalpuram Police Station, Perumalpuram, Tirunelveli District and subsequently quash the same with regard to the petitioners.

For Petitioners : Mr.S.PalaniVelayutham

For R-1 : Mr.R.M.Anbunithi
Additional Public Prosecutor

For R-2 : Mr.M.M.Manivelpandian



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ORDER

This Criminal Original Petition has been filed to quash the First Information Report in Crime No.742 of 2020 on the file of the first respondent police.

2. According to the petitioners based on the complaint given by the second respondent the first respondent registered a case in Crime No.742 of 2020 for the offences under Sections 420,465,467 and 380 of IPC. Infact the second respondent filed a complaint before the learned Judicial Magistrate No.I, Tirunelveli in Crl.M.P.No.3258 of 2020 and the same was forwarded to the first respondent under Section 156(3) of Cr.P.C. The case of the prosecution is that the second respondent is the son of the first petitioner. The wife of the first petitioner and the mother of the second respondent died on 19.09.2013. When the first petitioner was suffering from serious ailments the second respondent borrowed a sum of Rs.3,00,000/- from his relative to meet out his medical expenses by pledging the residential house and also he has renovated the said house by spending money. Further he also put up construction in the said house based on an unregistered agreement entered into between the first petitioner and the second respondent. While renovating the house an unregistered agreement came into existence between themselves on 13.06.2014. While so, on 20.08.2018 he submitted a requisition with regard to abstain of any registration in respect of the



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said house to anybody else. Hence civil suit in O.S.No. 410 of 2018 was filed by the second respondent on the file of the learned District Munsif, Tirunelveli and the same is pending. While facts are being so the first petitioner executed a settlement deed on 12.09.2019 in favour of the second respondent. In pursuant to the same, the second petitioner executed a general power of attorney on 16.09.2019 in favour of the third petitioner. Based on the above said documents these petitioners are attempting to sale the property. The first petitioner is the owner of the property and thereby he settled property in favour of the second petitioner and inturn the second petitioner executed general power of attorney in favour of the third petitioner. Therefore none of the offences would attract as against this petitioner. The second respondent filed a false complaint before the learned Judicial Magistrate and the same was forwarded to the first respondent and the first respondent has registered a case, therefore the registration of the First Information Report is abuse of process of law. Even as per the complaint only vague and bald allegations and no specific overt act has been attributed as against these petitioners. In fact the property was purchased by the first petitioner in the year 1972 itself. Already the second respondent filed suit in O.S.No.410 of 2018 and the same is also pending. While pending suit this false complaint has been lodged hence it is a pure abuse of process of law and hence the First Information Report is liable to be quashed.



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3. No counter was filed by the respondents.

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4. The learned counsel appearing for the petitioners would contend that the first petitioner is the father of the defacto complainant and the second respondent is the son of the first petitioner. Originally the property belongs to the first petitioner. He purchased the property in the year 1972 and he has been in possession and enjoyment of the property. Thereafter he executed settlement deed in favour of the second petitioner dated 12.09.2019 and in turn the second petitioner executed a power deed in favour of the third respondent on 16.09.2019. The second respondent filed a suit in O.S.No.410 of 2018 as against these petitioners before the District Munsif Court, Tirunelveli. Even in the above suit the second respondent admitted that the first petitioner is the owner of the property. His contention is that he made additional construction and made renovation in the said property. Since the first petitioner is the title holder of the property he executed settlement deed in favour of his daughter, second petitioner in turn the second petitioner executed power of attorney on 16.09.2019 in favour of the third petitioner. In the mean time the second respondent lodged complaint before the learned Magistrate No.I, Tirunelveli and the same was forwarded to the first respondent and the first respondent registered the First Information Report. Since the first petitioner is the owner of the property no offence would attract as against these petitioners hence the First Information Report is liable to be quashed.



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5. The learned counsel appearing for the second respondent would contend that the second respondent is residing in the disputed property and the first petitioner authorised the second respondent and thereby unregistered agreement was also executed between the parties and he has been in possession and enjoyment of the property. Thereafter by mortgaging the above said original deed of the property he borrowed a sum of Rs.3,00,0000/- for the expenses of the first petitioner. Further the second respondent spent huge money for construction in the upstairs. While the facts are being so, by suppressing the mortgage of the original deed the first petitioner executed settlement deed in favour of the second petitioner and in turn the second petitioner executed power deed in favour of the third petitioner. At the time of registering documents of settlement deed the petitioners created copy of documents which was deposited for the loan amount and false documents submitted before the Registrar Office. Therefore the above said act of the petitioners would attract the offence and thereby he lodged complaint. Based on which the present First Information Report has been registered. Further already the same first petitioner lodged complaint as against the second respondent alleging that he has stolen the original deed of the first petitioner and thereby the First Information Report in Crime No.660 of 2020 has been registered as against this second respondent , thereby the matter need



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elaborate investigation and at this stage without any proper investigation this Court cannot decide the petition, hence the petition is liable to be dismissed.

6. The learned Additional Public Prosecutor appearing for the first respondent would contend that based on the complaint given by the second respondent the first respondent registered First Information Report and as per the investigation *prima facie* materials available to proceed as against the accused persons thereby the matter requires detailed investigation and at this stage the petition is liable to be dismissed.

7. Heard both sides and perused the materials available on record.

8. On perusal of the records it is observed that there is a civil dispute pending between the parties with regard to the property which belongs to the first petitioner and he purchased the property in the year 1972 itself. According to the second respondent he is in possession and enjoyment of the property and he also spent huge money for renovation and further construction of property, to that effect there was an unregistered agreement was executed between the first petitioner and



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the second respondent and the first petitioner permitted the second respondent to construct property. Apart from that the second petitioner also borrowed a sum of Rs.3,00,000/- by depositing the original sale deed. While the facts are being so suppressing the above said facts the property has been settled in favour of the second petitioner. The second respondent is none other than the son of the first petitioner. But unfortunately due to this property First Information Report has been registered as against the father. The father has also given complaint against his son for that First Information Report has been registered and the same is pending. In so far as charges against the petitioners are concerned the offences under Sections 465,471 would not attract. It is an admitted fact that the first petitioner is the owner of the property and being title holder of the first petitioner can alienate the property to anybody on his own desire. It is an admitted fact that civil dispute is pending between the parties and thereby First Information Report has been registered as against each other. Inorder to attract the sections 465 and 471 of IPC there is absolutely no any materials available and the offences are made out as against these petitioners. Even according to the complaint the first petitioner only executed settlement deed but he is the owner of the property, thereby no offence is made out to attract the offences under Sections 465 and 471 of IPC and due to property dispute between the father and son this complaint was filed, therefore the pending First Information Report is abuse of process of



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law and thereby this Court is inclined to quash the First Information Report.

9. In view of the above discussions and considering the facts and circumstances of the case, this Criminal Original Petition stands allowed and the First Information Report in Crime No.742 of 2020 on the file of the first respondent is hereby quashed in so far as the petitioners are concerned . Consequently connected miscellaneous petition is closed.

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Index : Yes / No
Internet : Yes / No
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To

1. The Inspector of Police
Perumalpuram Police Station
Tirunelveli City
Tirunelveli District
- 2.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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P.DHANABAL, J.

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