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Crl.O.P.(MD)No.13489 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.13489 of 2020
and
Crl.M.P.(MD)Nos.13489 of 2020 & 6188 of 2020

Rukmani

... Petitioner/accused No.7

Vs.

1.The Inspector of Police,
District Crime Branch,
Dindigul,
Dindigul District.

... 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 in Crime No.8 of 2020, dated 09.07.2020, on the file of the first respondent police as against the petitioner and to quash the same.

For Petitioner : Mr.T.S.Mohamed Mohideen

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

: Mr.T.Sakthikumaran for R2



Crl.O.P.(MD)No.13489 of 2020

ORDER

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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. Chelladurai purchased some properties on 14.12.1981 and on 11.07.1983, 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 petitioner, it is stated that the petitioner herein is A7 and that he is no way connected with the alleged offence. Based on the registered partition deed presented by the first accused and on the recommendation of the village administrative officer, patta was issued in the name of A1 on 03.03.2020. The decree passed in O.S.No. 184 of 2018 2018 on the file of the District Munsif, Nilakottai, was not brought to the knowledge of the petitioner. The petitioner was not a respondent in the suit and based on the records placed online, the patta was mutated by the petitioner.

4. It is further stated that on 28.07.2020, the Tahsildar cancelled the patta and brought back the revenue records in the original position. The first accused did not produce any document in respect of O.S.No.184 of 2018. Relying on the document presented by the first



accused through online and on the recommendation of the village administrative officer and without any knowledge as to the decree in OS.No.184 of 2018, the petitioner has issued patta, which was now rectified. There is no possibility for the petitioner to conduct any enquiry or to record any evidence. There is no forgery, conspiracy or cheating done by the petitioner. Instead of filing an application for rectification before the Revenue Department, the defacto complainant has filed this F.I.,R, which is not maintainable.

5. On the side of the defacto complainant, it is stated that the petitioner is A7 in the case and only on her recommendation, patta was transferred in the name of A1 to A4 and it is the duty of the petitioner to verify the records and to verify the LR certificate.

6. 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



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CrI.O.P.(MD)No.13489 of 2020

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



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CrI.O.P.(MD)No.13489 of 2020

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. On the side of the prosecution, it is stated that when an accused being a Government Servant involved in any offence will have a serious impact on the Society and they have to be prosecuted and prayed the petition to be dismissed.

8. It is seen that the property belonged to one Chelladurai. The petitioner is A7 in the case. The allegation against A1 to A4 is that they forged a partition deed and with the help of the forged partition



CrI.O.P.(MD)No.13489 of 2020

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 Superintendent (Land Reforms), without verifying the genuineness of the partition deed, she 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. There is no possibility for the petitioner to have a knowledge that the partition deed is a forged one. That patta in the name of A1 to A4 was also cancelled. The LR certificate in the name of the defacto complainant was issued on 22.07.2019. There is no prima facie case made out under Sections 120B, 420, 467, 468 and 471 of I.P.C

9. Hence, this Petition is partly allowed. The name of the petitioner is to be removed from the First Information Report in Crime No.8 of 2020, on the file of the first respondent police. The F.I.R with regard to the other accused is not quashed. Consequently, connected Miscellaneous Petitions are closed.

NCC : Yes/No
Index : Yes/No
Ls

07.06.2023



Crl.O.P.(MD)No.13489 of 2020

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.13489 of 2020

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