



Crl.O.P.(MD)No.20142 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 15.09.2023

CORAM

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

Crl.O.P.(MD)No.20142 of 2021

and

Crl.M.P.(MD)Nos.11354 and 11357 of 2021

1.V.Brightlet
2.Thankalet, W/o.S.S.P.Rajan
3.S.S.P.Rajan

... Petitioners/A1 to A3

Vs.

1.The State of Tamil Nadu,
Rep. by the Inspector of Police,
Anti Land Grabbing Special Cell,
Kanyakumari District at Nagercoil.

V.Rethinaraj (Died)

2.Alwin Kumar, S/o.V.Rethinaraj

... Respondents

[R2 is suo motu substituted as per order dated
17.12.2021, made in Crl.O.P.(MD)No.20142/2021]

PRAYER: Criminal Original Petition is filed under Section 482 of the Criminal Procedure Code, seeking to quash C.C.No.1020 of 2021, on the file of the Special Court for Land Grabbing Cases, Tirunelveli, Tirunelveli District.



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For Petitioners : Mr.S.Xavier Rajini
For R1 : Mr.R.Meenakshi Sundaram
Additional Public Prosecutor
For R2 : Mr.Sivabalan
for Mr.G.Aravindhan

ORDER

This order has to be read in conjunction with and in continuation of earlier proceedings made in the previous listing on 13.09.2023, which reads as follows:-

"The petitioners, who are accused in CC No. 1020/2021 facing trial for offences under Sections 120(B), 420, 465, 468 and 471 IPC. They have filed this petition for quashing the proceedings in CC No. 1020/2021.

2. The primary contention of the petitioner is that the petitioner and the 2nd respondent are none other than the half brother and half sister. Their father Valsam Nadar had married one Thangammal. She died in the year 1961. Thereafter he married one Agnes Nadachi as his second wife. The first and 2nd petitioners are the daughters of Agnes Nadachi and the second respondent is the son of Valsam Nadar. During



the pendency of the above case, the 2nd respondent died and his son Alwin Kumar has been substituted in his place. Valsam Nadar had inherited around 4 acres of land by way of partition in the year 1963 vide Document No.1898. After the marriage of Valsam Nadar with Agnes Nadachi, his entire properties have been settled in favour of the second wife Agnes Nadachi vide document No.2736 in the year 1967. Thereafter, Agnes Nadachi settled all the properties in favour of her five siblings, namely, Brightlet, Thangalet, Roselet, Jesilet and Suji Inbalet. This being so taking advantage of the old age of Valsam Nadar, the petitioners herein are said to have created a settlement deed in Doc. No.1712/1992. This document is now projected as forged document and hence, the case.

3. Learned counsel for the petitioners submitted that the fingerprint expert opinion is that Q5 – Q7, the questioned fingerprint impression of Valsam Nadar was unable to be compared, since it was highly smudged. Based on the above factor alone, the case is to be quashed.



4. *Learned counsel for the 2nd respondent submitted that in this case, it is not as simple as petitioners have projected. Knowing fully well that the petitioners have no right over the property, they had created a document as though settlement has been made by Valsam Nadar, who was in the death bed and died on 09.08.193. One year prior to his death, the above gift deed is said to have been created. He further submitted that after the alleged settlement, the first and second petitioners have created encumbrance to the property by engaging three advocates, namely, VD.Gopan, Jin Jebrin Jose and David, who had further created encumbrance to the properties, sold the properties to other persons, who have been shown as defendants in O.S.No.105/2013. After bifurcation, the civil suit was renumbered as O.S.No.157/2018 and by judgment and decree dated 23.08.2022, suit finally decreed in favour of the 2nd respondent and the petitioners herein and one Rajan and Cristhu Das have remained exparte. The civil Court had declared the gift deed as null and void, which is the subject matter of the above case. He further submitted that the petitioners herein have lodged several false complaints against the 2nd respondent, whenever they took steps to retrieve their property.*



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5. At this juncture, learned counsel for both sides, sought short accommodation to get further instructions with regard to any settlement since the first petitioner is aged about 75 years and suffering from Cancer. Post on 15.09.2023."

2. Today, it is submitted that the second respondent herein faced 6 criminal cases, of which, in 5 cases, he got acquitted and in one case, C.C.No.219 of 2018 is pending before the Judicial Magistrate Court No.I, Padamanabapuram, Kanniyakumari District, for the offences under Sections 294(b), 323 and 506(ii) I.P.C. The present case in C.C.No.1020 of 2021, which was subsequently transferred to the Judicial Magistrate Court No.II, Kuzhithurai, Kanniyakumari District, and renumbered as C.C.No.489 of 2023, is the only case, in which, the second respondent's father had lodged a complaint. Now, the issue has been resolved between the parties and it was decided that the case against Alwin Kumar in C.C.No.219 of 2018 would be withdrawn and not further pursued by P.D.Gopan, the de-facto complainant therein, who is the fourth defendant in the civil suit in O.S.No.105 of 2013, which was subsequently, renumbered as O.S.No.157 of 2018, on the file of the Principal District Munsif Court, Valliyoor.



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3. The learned Additional Public Prosecutor submits that the entire case is an off-shoot of the civil dispute between the family members. The relationship between the petitioner and the de-facto complainant is not in dispute. The complaint was for creating false document, which is of private in nature. In this case, the investigation completed, charge sheet filed. Now, the parties buried their hatchet, decided to give quietus to the criminal cases pending between them and to abide by the Civil Court's findings in respect of the property dispute.

4. The de-facto complainant P.D.Gopan on whose complaint a case in C.C.No.219 of 2018 is proceeded, has filed an affidavit accepting the compromise and having no objection to compound/close the case in C.C.No.219 of 2018, pending on the file of the Judicial Magistrate Court No.I, Padmanabapuram, Kanniyakumari District and in conformity to the same, filed an affidavit dated 14.09.2023 and a scanned reproduction of the same is as follows:-



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BEFORE THE HIGH COURT OF JUDICATURE AT MADRAS

MADURAI BENCH

(Criminal Original Jurisdiction)

Crl.O.P.(MD)No.20142 of 2021

In

C.C.No.1020 of 2021

(On the file of the Special Court for Land Grabbing Cases,
Tirunelveli)

P.D.Gopan,
S/o. Perumal Pillai,
Nettancode,
Karankadu Post,
Kanniyakumari District. Defacto Complainant in C.C.No.219 of 2018

AFFIDAVIT OF P.D.GOPAN

I, P.D.Gopan, son of Perumal Pillai, Hindu, aged about 41 years residing at Nettancode, Karankadu Post, Kanniyakumari District and my Aadhaar Number is 4198 6608 3931, do hereby solemnly affirm and sincerely state as follows:-

1) I submit that I am the defacto Complainant in C.C.No.219 of 2018, on the file of the Judicial Magistrate No.I, Padmanabhapuram, Kanniyakumari District and as such I am well acquainted with the facts and circumstances of the case. I am filing this Affidavit.

P.D.G.

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2] I humbly submit that based on my complaint the Inspector of Police, Kotticode Police station has registered a case in Crime No.143 of 2016 against Albinkumar, Charan @ Saran, Vibin and John for the alleged offences under Section 294(b), 323 & 506(ii) of IPC.

3] I humbly submit that the case has been registered on 24.06.2016 for the alleged offences 294(b), 323, and 506(ii) of IPC in Crime No.143 of 2016 on the file of the Inspector of Police Kotticode Police Station and the Inspector of police filed a final report against Albinkumar, Charan @ Saran, Vibin and John for the offences 294(b), 323 and 506(ii) of IPC and the same was numbered as C.C.No.219 of 2018 on the file of the Learned Judicial Magistrate No.1, Padmanabhapuram, Kanniyakumari District.

4] I submit that now the issue has been compromised and settled amicably at the intervention of relatives, well wishers and elders of the locality. Now the dispute has been compromised and settled. I did not want to pursue the criminal case further and I wanted to quiet the entire dispute, hence I am agreed to give no objection to quash the criminal case in C.C.No.219 of 2018 on the file of the Learned Judicial Magistrate No.1, Padmanabhapuram, Kanniyakumari District, in respect of all the accused.

x P.S. gk

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5] I submit that now the Criminal Original Petition filed by one V.Brightlet and 2 others in Crl.O.P.(MD)No.20142 of 2021, is pending before this Hon'ble High Court challenging the impugned order in C.C.No.1020 of 2021 on the file of the Learned Special Court for Land Grabbing Cases, Tirunelveli and I agree to quash the C.C.No.219 of 2018 on the file of the Learned Judicial Magistrate No.I, Padmanabhapuram, Kanniyakumari District, in respect of all the accused together with the C.C.No.1020 of 2021 on the file of the Learned Special Court for Land Grabbing Cases, Tirunelveli.

Therefore it is prayed that this Honourable court may be pleased to record and accept this compromise Affidavit for quashing the C.C.No.219 of 2018 on the file of the Learned Judicial Magistrate No.I, Padmanabhapuram, Kanniyakumari District together with C.C.No.1020 of 2021 on the file of the Learned Special Court for Land Grabbing Cases, Tirunelveli and pass such further or other orders as this Hon'ble Court may deem fit and proper in the circumstances of the case and thus render justice.

Solemnly affirmed at Madurai on this 14th day of September, 2023, after having understood contents of affidavit in Tamil and signed his name in my presence.

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Corrs;

BEFORE ME,

ADVOCATE, THUCKALAY

S. ANTO CLETUS RAJ

M.S. No: 1688/06

Advocate

Immanuel Street,

Eraniel Road, Thuckalay & (P.O)

K.K. Dist - 629176, Ph: 94433 10343



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5. In view of the above, there is no objection from either side to quash the case in C.C.No.1020 of 2021, which was subsequently transferred to the Judicial Magistrate Court No.II, Kuzhithurai, Kanniyakumari District, and renumbered as C.C.No.489 of 2023, and C.C.No.219 of 2018, by filing appropriate petition before the concerned Court.

6. In view of the above, this Court quashes the proceedings in C.C.No.489 of 2023, on the file of the Judicial Magistrate Court No.II, Kuzhithurai, Kanniyakumari District. Accordingly, this Criminal Original Petition is allowed. Consequently, connected Miscellaneous Petitions are closed.

7. The petitioners are at liberty to file a petition along with compromise memo before the Judicial Magistrate Court No.I, Padmanabapuram, Kanniyakumari District, for quashing C.C.No.219 of



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2018. On such filing, the Court below is directed to consider the same and pass appropriate orders.

15.09.2023

Index : Yes/No
Internet: Yes/No
Neutral Citation: Yes/No
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Copy to:-

The Judicial Magistrate No.I,
Padmanabapuram,
Kanniyakumari District.

To

- 1.The Judicial Magistrate No.II,
Kuzhithurai, Kanniyakumari District.
- 2.The Inspector of Police,
Anti Land Grabbing Special Cell,
Kanniyakumari District at Nagercoil.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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M.NIRMAL KUMAR, J.

smn2

Order made in

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15.09.2023