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Crl.O.P.No.3617 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.06.2024

CORAM

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

Crl.O.P.No.3617 of 2021
& Crl.M.P.Nos.2133 of 2021 & 6428 of 2024

Kutti Padmini

... Petitioner/1st Accused

/versus/

1. The Inspector of Police,
S-7, Madipakkam Police Station,
St. Thomas Mount,
Chennai.

... Respondent/Complainant

2. Mrs.K.Samanthakamani (deceased)

3. M.A.Kannan

4. K.Aravind

5. K.Swatha

...Respondent/Defacto

Complainant

R3 to R5 impleaded as per order dated 15.04.2024 in Crl.M.P.No.6428 of 2024 in Crl.O.P.No.3617 of 2021.

Prayer: Criminal Original Petition is filed under Section 482 of Criminal Procedure Code, to call for the records in Crime No.2303 of 2013 dated 02.12.2013 on the file of S-7, Madipakkam Police Station, St.Thomas Mount, for the alleged occurrence dated 01.03.2000 offences registered under Sections 341, 465, 468, 471 and 506(ii) of I.P.C.

For Petitioner : Mr.B.Kumar, Senior Counsel,
for Ms.Usharamman

For R1 : Mr.S.Udaya Kumar
Government Advocate (Crl.Side)



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For R2 : Mr.K.M.Ramesh

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ORDER

This petition is filed to quash a complaint registered by the Madipakkam Police Station in Crime No.2303 of 2013 registered on the behest of Mrs.K.Samanthakamani alleging that the petitioner herein has committed serious offence of fabricating documents, criminal trespass, forgery and using false document as genuine. While the complaint been pending investigation for several years, the defacto complainant through power agent Mrs.K.Samanthakamani had filed Crl.O.P.No.16540 of 2020 before this Court seeking transfer of investigation from the Inspector of Police, Madipakkam Police Station to Central Crime Branch.

2. This Court, after considering the submissions made by the Learned Counsel for the petitioner and the Learned Government Advocate (Crl.Side) for the 1st respondent had directed the 1st respondent (Madipakkam Police) to hand over the case records along with any other connected case, if any pending, to Deputy Commissioner of Central Crime Branch, Chennai, within a period of two weeks and on receipt of the papers, the investigation shall commence immediately by the team in Central Crime Branch. Accordingly, the



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papers in connection with Crime No.2303 of 2013 on the file of Madipakkam Police Station, Chennai got transferred to Central Crime Branch and renumbered as Crime No.205 of 2021.

3. While fact being so, the petitioner herein has filed this quash petition in the year 2021 not knowing that an order been passed by this Court at the instance of Mrs.Samanthakamani for transfer of investigation without impleading the petitioners herein who are suspected accused in the complaint. That apart, it is also essential to record at this juncture that on the day when this Court passed an order to transfer the investigation on the complaint given by Mrs.Samanthakamani, the said Mrs.Samanthakamani had lost her breath on (10.11.2020) but this was not brought to the notice of this Court when the transfer order was passed in Crl.M.P.No.16540 of 2020 dated 04.01.2021.

4. The Learned Senior Counsel appearing for the accused/petitioner submitted that the 1st petitioner purchased 3040 sq.ft of land from the lawful owner in the year 1992 *vide* document dated 22.01.1992 and she inturn sold it to one Imrana on 01.03.2000. Earlier, the complainant Mrs.Samanthakamani through her power agent Mr.S.Ramesh instituted a suit in O.S.No.36 of 2012 on the file of Principal District Judge, Kanchipuram, for declaration of her title in



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respect of the said property and the said suit came to be dismissed after full trial

on 19.08.2021. While the dispute is purely a civil dispute touching upon the identification of the property and its boundary, giving criminal colour to the dispute, complaint given, that too after the petitioner sold away the property. The complaint been lodged three years after the jurisdiction police thought fit not worth taken cognizance due to the nature of the complaint. Therefore, the Learned Senior Counsel pleaded that the order passed on 04.01.2021 transferring the investigation to Central Crime Branch cannot be acted upon since the order was passed after the petitioner's death. Even otherwise, the complaint by its nature cannot sustain for any investigation by the police at the most, the right of the parties has to be determined before the competent Civil Court.

5. Per contra, the Learned Counsel appearing for the respondent who is the Power Agent of the legal heirs of the deceased Mrs.Samanthakamani, would submit that no doubt when the order passed on 04.01.2021 transferring the investigation to Central Crime Branch, Mrs.Samathakamani was not alive. But, thereafter, the legal heirs of the Mrs.Samathakamani had executed power of attorney in favour of this petitioner and therefore, the order passed by this Court for transfer of investigation should stand and survive.



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6. As far as the averment made about the civil litigation, Mr.K.M.Ramesh, Learned Counsel appearing for the 2nd respondent submitted that the dismissal decree of the Principal District Judge, Kanchipuram passed in O.S.No.36 of 2012 now been under challenged by way of appeal suit and the same is pending. Pendency of the appeal, cannot be a bar for the police to investigate the case when apart from title dispute, ingredient to attract offences of forgery, falsification of documents, wrongful restrain and criminal intimidation *prima facie* made out.

7. The Learned Counsel appearing for the 2nd respondent further submitted that the delay of 7 years in completion of investigation forced Mrs.Samanthakamani, to file petition before the High Court for transfer of investigation. Though she is now dead, the relief sought still survives. The Legal heirs of Mrs.Samanthakamani are now brought on record and they have also authorised S.Ramesh as Power Agent and therefore, on technical ground the order passed by this Court on 04.01.2021 cannot be nullified.

8. Heard the Learned Counsel for the petitioner, Learned



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Government Advocate (Crl.Side) for the 1st respondent and Learned Counsel for

the 2nd respondent.

9. The Learned Government Advocate (Crl.Side) for the 1st respondent submitted that the Central Crime Branch had completed the investigation pursuant to the direction of this Court and they are about to file report regarding the outcome of investigation before the Court concern. Due to interim order passed in Crl.O.P.No.3617 of 2021, the final report not been filed before the Court concern.

10. After hearing the Counsels and perusing the records, this Court is fully satisfied that the dispute between Mrs.Samanthakamani and her representatives is in respect of a piece of land which is traceable to a common owner by name Tmt.Unnamalaiaimmal, who had larger extent of land at Madipakkam village and plotted out it into pieces and sold it to various persons in the year 1955 and thereafter. While plot No.4 purchased by the petitioner Tmt.Kutti Padmini in the year 1992 it appears that Mrs.Samanthakamani, had purchased the neighbouring plot in the year 1990. In this connection, the said Mrs.Samanthakamani had instituted a Civil Suit in the year 2012 seeking declaration of her title over her property bearing S.No.143/4, later sub-divided



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as S.No.143/26 with separate patta bearing No.10525. However, the suit came to be dismissed on the ground that Mrs.Samanthakamani, the plaintiff has not proved her case with sufficient oral and documentary evidence. The property not been properly identified.

11. Mr.K.M.Ramesh, Learned Counsel appearing for the legal heirs of Mrs.Samanthakamani states that an appeal has been preferred against this judgment and decree and the same is pending. This would only show that the dispute between the parties are purely civil in nature and there cannot be any criminal colour given to the issue, for the police to investigate. In any event, now the Central Crime Branch had completed the investigation pursuant to the direction passed by this Court. The draft final report is also made ready and circulated it to this Court for perusal.

12. Therefore, it is suffice to say that the complaint against the petitioner herein is purely civil dispute which has to be decided by the competent Civil Court and in fact, the parties have already resorted to the Civil Court and decree has been passed by the Court of first instance and the appeal is pending. Subject to the outcome of the civil dispute, the parties can workout their remedy which is just and appropriate. They need not short circuit the legal



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process resorting to criminal prosecution.

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13. Hence, the F.I.R in Crime No.2303 of 2013 is hereby quashed.

Accordingly, this Criminal Original Petition No.3617 of 2021 is allowed.

Consequently, connected Miscellaneous Petitions are closed.

20.06.2024

Index : Yes/No.

Neutral Citation : Yes/No.

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Copy to:-

1. The Inspector of Police, S-7, Madipakkam Police Station,
St. Thomas Mount, Chennai.
2. The Public Prosecutor, High Court of Madras, Chennai.

Dr.G.JAYACHANDRAN, J.



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