



Crl.O.P.No.6396 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on :23.07.2024

Pronounced on :26.07.2024

CORAM:

THE HONOURABLE DR JUSTICE G.JAYACHANDRAN

Crl.O.P.No.6396 of 2024

and

Crl.M.P.Nos.4711 & 4714 of 2024

S.Ramachandran

.. Petitioner

/versus/

1.The State rep.by
The Inspector of Police,
Vaniyambadi Police Station,
Crime No.78 of 2011,
Vellore District.

2.M.Anandhan

.. Respondents

Criminal Original Petition has been filed under Section 482 of Cr.P.C.to call for the records relating to the criminal case in C.C.No.103 of 2021,pending trial on the file of the learned Judicial Magistrate, Vaniyambadi and quash the same.

For Petitioner :Mr.N.Manoharan

For R1 :Mr.S.Udaya Kumar

Govt.Advocate (Crl.Side)

For R2 :Mr. M.Sivavarthan



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ORDER

This Criminal Original Petition is filed by the second accused/petitioner to quash C.C.No.103 of 2021 pending on the file of the Judicial Magistrate, Vaniyambadi.

2.The said criminal case came to be registered on 15.02.2011 on the complaint given by one M.Anandhan, 2nd respondent herein and investigated by the first respondent police in Crime No.78 of 2011 against the petitioner and four others for the alleged offences punishable under Sections 120-B, 420, 465, 468, 471, 506(i) of IPC r/w Section 34 of IPC.

3. The complaint is in respect of the property in S.F.No.110/1-A measuring to an extent of 2.04 acres, which was purchased by Chinnammal on 22.02.1943. The said Chinnammal died leaving behind her four sons, by name, Munirathinam, Vadivelu, Raman and Anandhan. The complainant, Anandhan is one of the son of Chinnammal. He claims



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right over the property based on the settlement deed dated 31.12.1982 alleged to have been executed by Chinnammal. Whereas, the petitioner herein is the purchaser of 1500 sq.ft. out of 40 cents in S.F.No.110/1-A from one Raman, who is the first accused in this case. The said sale deed is dated 02.10.2010. Raman, who is the vendor of the petitioner traces his title through koorchit entered between the four sons of Chinnammal.

4. Final Report of the prosecution indicates that the accused A1 to A5 conspired together to grab the property of the complainant Anandhan and had in pursuant to the conspiracy created false document and shown it as genuine to the Sub Registrar and executed the sale deed measuring to an extent of 1500 sq.ft. in favour of the petitioner Ramachandran for a sum of Rs.68,000/- and the remaining 15940 sq.ft. was settled in favour of the first accused's son Seshathiri (A5). The case for the offences punishable under Sections 120-B, 420, 465, 468, 471, 506(i) of IPC r/w 34 of IPC has been taken cognizance by the Court as against the petitioner and four others.



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5. According to the petitioner, he is a bona fide purchaser from A1, who holds valid title over the property measuring to an extent of 40 cents in S.F.No.110/1A in Chettiyapanur Village. His vendor Raman (A1) traces his title through family arrangement namely, koorchit between the four sons of Chinnammal. Out of 2.04 acres in S.F.No.110/1-A, 40 cents, was allotted to Raman under Koorchit. The said Raman was in continuous possession and enjoyment of the property till he sold 1500 sq.ft, out of 40 cents under sale deed dated 02.10.2010. The settlement deed alleged to have been executed by Chinnammal on 31.12.1982 is not the genuine document and without proper investigation, final report has been filed without testing the genuineness of the settlement deed.

6. Further, it is also contended that there are civil suits pending between the parties. Two suits between the sons of Chinnammal and another suit by the fifth accused, who is the grandson of Chinnammal. The suit in O.S.No.51 of 1991 between A1(Munirathinam) and Anandhan before the Sub Court, Thirupathur for partition. The suit in and injunction and O.S.No.75 of 2009 filed by A1(Munirathinam) and



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Anandhan before the District Munsif-cum-Judicial Magistrate, Vaniyambadin for partition. The said suit came to be dismissed for default on 17.03.2010. The other two suits in O.S.No.39 of 2009 for partition and O.S.No.24 of 2011 for injunction are still pending. While so, what could not be achieved through the civil suit, the complainant want to achieve it through criminal complaint by projecting the settlement deed executed by Chinnammal shrouded with suspicion.

7. The learned counsel appearing for the petitioner further submitted that the settlement deed through which the defacto complainant claims right, is the subject matter of the suit pending. Out of 2.04 acres in S.F.No.110/1A as per koorchit family arrangement between four sons of Chinnammal, 40 cents was allotted to A1 Munirathinam and he had been in continuous possession and enjoyment of the property till he sold 1500 sq.ft. to the petitioner herein/A2. The remaining 15,940 sq.ft. was settled to his son Seshathiri, who is the fifth accused.



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8. Per contra, the learned counsel appearing for the defacto complainant/2nd respondent submitted that the complainant is in possession of the property, as per the settlement deed of Chinnammal dated 31.12.1982. Knowing about his title and possession, this petitioner herein approached the second respondent to sell the portion of the property in S.F.No.110/1A. The complainant refused to sell the property. However, the petitioner tried to trespass into the property on 01.08.2010. Therefore, he filed a suit in O.S.N0.138 of 2010 before the District Munsif-cum-Judicial Magistrate, Vaniyambadi against the petitioner and three others for injunction. Thereafter, with connivance of the Sub Registrar, this petitioner has created sale deed as if the first accused Munirathinam has a right over the property through koorchit and sold it to the petitioner herein for Rs.68,000/-.

9. In this connection, the learned counsel submitted that the sale deed in favour of the petitioner was registered on 02.08.2010 a day before instituting the suit in O.S.No.138 of 2010 on the file of the District Munsif cum Judicial Magistrate, Vaniyambadi. The said suit was



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allowed on 12.07.2016 granting injunction against the petitioner and others. It is specifically contended by the second respondent that the property which the second respondent acquired through settlement deed dated 31.12.1982 from his mother is attempted to be grabbed by creating forged document in the name of family arrangement. Therefore, the case in Crime No.78 of 2011 came to be registered.

10. When one of the accused moved this Court to quash the complaint, the same was dismissed by this Court in Crl.O.P.No.8943 of 2011 on 26.10.2016. Thereafter, final report filed and taken cognizance in C.C.No.103 of 2021. Stating that the koorchit relied by the petitioner to claim title in favour of his vendor is on the face shows manipulation and corrections. Particularly, in respect of the subject property, the survey number is found inserted later. Therefore, the petitioner is to face the trial since the commission of cognizable offence been *prima facie* made out.

11. In response, the learned counsel appearing for the petitioner submitted that it is infact the settlement deed of Chinnammal dated



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31.12.1982 is a suspicious document. The manipulation and forgery in the document could be easily seen from the interpolation in the signature of Chinnammal and changes in handwriting in the last three pages of the settlement deed and the different dates of the stamp papers all together put the document most unreliable. Therefore, this document has now been subjected to scientific examination in the pending suit.

12. If the said settlement deed finally held to be a forged document, even without the strength of the family arrangement koorchit the vendor of this petitioner will have a share in 2.04 acres of land in S.F.No.110/1A and from him, a part of the property measuring 1500 sq.ft. purchased by this petitioner in the year 2010, will be perfectly valid.

13. The prosecution against this petitioner is for conspiracy in making false document and using it as genuine and thereby obtain wrongful gain. The petitioner herein is the purchaser from one of the legal heirs of Chinnammal. It is an admitted fact that the property was purchased by Chinnammal in the year 1943. Out of four sons, the vendor



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of the petitioner, who is the first son of Chinnammal claims right through the family arrangement restricting his right to 40 cents, out of 2.04 acres in S.F.No.110/1A. Whereas the complainant Anandhan who is the another son of Chinnammal claims the entire property through the settlement deed of the year 1982. He also relies upon the revenue document and other records to show that the property is in his possession and enjoyment. Already, the parties have approached the civil Court seeking partition and the same is pending. The settlement deed through which the complainant traces the title and the koorchit, through which, the vendor of the petitioner claims rights both are before the civil Court and its genuineness is yet to be decided.

14. As far as this petitioner is concerned, he has not purchased the property from a stranger, but from one of the sons of Chinnammal who is the original titleholder. The koorchit among the family members is relied upon and in the said koorchit all the four sons as well as Chinnammal had signed. The second respondent/defacto complainant, who is one of the signatory now questions this koorchit stating that the



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survey number of the subject property been subsequently inserted in the schedule and the said property has already been settled in his favour by his mother.

15. It is to be noted that the settlement deed through which the defacto complainant claims right, also carry certain suspicious entry and corrections particularly, Chinnammal, had signed her name properly in three sheets of the document, which are stamp papers purchased prior to 31.12.1982. Whereas, in the subsequent sheets of the documents from page No.4, Chinnammal has omitted to put 'L' and the same has been inserted and these four stamp papers were purchased on 31.12.1982 and 27.12.1982. Though the sons of Chinnamal claims right through two different documents, both the documents have element of suspicion and subject matter of judicial scrutiny in the civil Court.

16. The petitioner herein is the subsequent purchaser based on the document shown by his vendor. He had purchased the property from A1, who is none other than one of the sons of Chinnammal. The



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ingredient of conspiracy, cheating and falsification of document as against this petitioner, who is not a member of the same family is not made out. The dispute is essentially between two brothers who claims right in the property through two different documents perpetrated to have been executed by their mother Chinnammal, who is the original owner of the property. The parties have gone to Civil Court to settle the dispute and the matter is pending. While so, the complaint as against this petitioner is not sustainable and it is to be considered as a misuse for settling score with his brother, who is the first accused.

17. In view of this Court, this petitioner ,who is the purchaser of 1500 sq.ft. of land based on the document produced by A1, who is by all means entitled for a share in the property as legal heir of Chinnammal. If there is any intervention in the inheritance through document like the settlement deed relied by the complainant, the said intervention is matter for adjudication before the civil Court.



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18. It is not appropriate to continue the prosecution against this petitioner, who is a bona fide purchaser for value.

19. Accordingly, the case in C.C.No.103 of 2021 on the file of the Judicial Magistrate, Vaniyambadi is hereby quashed.

20. In the result, this Criminal Original Petition is allowed. Consequently, connected Miscellaneous Petitions are closed.

26.07.2024

Index:yes

Speaking order/non speaking order

Neutral citation:yes/no

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To

1.The Judicial Magistrate, Vaniyambadi.

2.The Inspector of Police, Vaniyambadi Police Station,
Crime No.78 of 2011, Vellore District.

2.The Public Prosecutor, High Court, Madras.



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Dr.G.JAYACHANDRAN,J.

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delivery Order made in
Crl.O.P.No.6396 of 2024
and
Crl.M.P.Nos.4711 & 4714 of 2024

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