

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.06.2021

CORAM:

THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

CRL.O.P.No.10518 of 2021
and
Crl.M.P.No.6320 of 2021

1.P.Murugesan
2.P.Suresh

... Petitioners

Versus

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

2.K.Palaniappan

... Respondents

PRAYER: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to call for the entire records in relation to Cr.No.37 of 2012 on the file of the first respondent herein and quash the same.

For Petitioner : Mr.D.Vairamoorthy

For R1 : Mr.A.Damodaran,
Government Advocate (Crl. Side)

ORDER

This Criminal Original Petition has been filed to quash the FIR in Crime No.37 of 2012, dated 16.09.2012 pending on the file of the 1st respondent Police.

2.The learned counsel for the petitioners submitted that the case has been registered against the petitioners based on the finding of the Revision Petition in R.P.No.23 of 2011. The petitioners were removed from the enjoyment of the property in survey No.248 measuring to the extent of 8.15 acres by the Assistant Commissioner, Hindu Religious and Charitable Endowment, Namakkal on 18.11.2011 with the aid of the revenue officials and Police. The property is valued more than two crore. It is seen that on 22.04.2011, a lease deed was created and it has been notarized. This lease deed is alleged to be a forged document and based on which, the case has been proceeded against the petitioners.

3.The learned counsel for the petitioners further submitted that against the order of the Assistant Commissioner, Hindu Religious and Charitable Endowment, Namakkal in R.P.No.23 of 2011, a statutory appeal has been filed before the Subordinate Judge, Paramathi in O.S.No.38 of 2018. After completing the trial, the learned Subordinate Judge, Paramathi, by judgment, dated 28.03.2019 found that the Assistant Commissioner, Hindu Religious and Charitable Endowment Department, Namakkal has got no right to demand any lease amount and the petitioners' enjoyment on the property is not illegal. The learned counsel further submitted that Ex.P8 is the lease deed dated 22.04.2011 and no evidence was produced in the suit to prove the lease deed is a forged one. The entire case rest on whether the lease deed dated 22.04.2011 has been forged or otherwise. Hence, he prayed for quashing of the FIR against the petitioners.

4.The learned Government Advocate (Crl. Side) appearing on behalf of the respondents 1 and 2 submitted that the lease deed dated 22.04.2011 is a forged document. Based on which, the FIR was registered. During investigation the statement of Notary one Mr.Shanmugam was recorded and also the statement of Stamp Vendor Jayasingh recorded. Further, the lease deed was subjected to Forensic Study and proved that it is forged one. He further submitted that on completion of investigation, charge sheet was filed before the learned Judicial Magistrate, Paramathi on 16.06.2020 and so far, the charge sheet is not taken on file.

5.According to the learned Government Advocate (Crl. Side), the pith and substance in the civil suit are not same in the criminal case. Hear the document has been proved as forged one. The petitioners are the beneficiaries, who were squatting upon the temple properties worth about several crores.

6.It is seen that since charge sheet has been filed before the learned Judicial Magistrate, Paramathy, nothing survives in the above Criminal Original Petition and the same is liable to be dismissed and is dismissed. Consequently, the connected Miscellaneous Petition is closed.

7.The learned Judicial Magistrate, Paramathy is directed to send a report why the charge sheet filed on 16.06.2020 has not been taken on file till date and who is the reason and cause for it.

8.Post the matter on 20.07.2021 for reporting compliance.

Sd/-

Assistant Registrar (CS-IV)

//True copy//

<https://hcservices.ecourts.gov.in/hcservices/>

Sub Assistant Registrar

vv2

To

1.The Judicial Magistrate,
Paramathi.

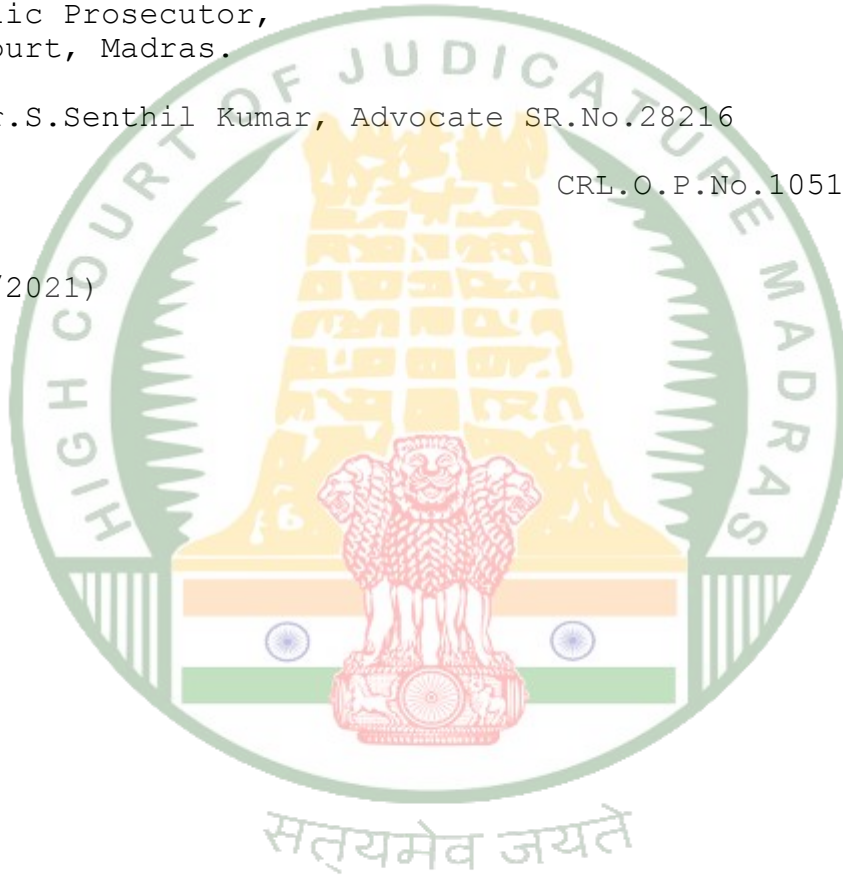
2.The Inspector of Police,
District Crime Branch,
Namakkal.

3.The Public Prosecutor,
High Court, Madras.

+lcc to Mr.S.Senthil Kumar, Advocate SR.No.28216

CRL.O.P.No.10518 of 2021

PCH(CO)
GMY(09/07/2021)



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