



WEB COPY



Crl.O.P.No.15407 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.03.2024

CORAM

THE HONOURABLE MRS.JUSTICE T.V.THAMILSELVI

Crl.O.P.No.15407 of 2022

and

Crl.M.P.Nos.8638 & 8639 of 2022

1.K.Kalaivanan
2.K.Karthick
3.K.Deepak
4.C.Karthikeyan
5.V.Sivasamy

... Petitioners

Vs.

P.V.Jayanthi Iyyengar

... Respondent

Prayer: Criminal Original Petition filed under Section 482 of Cr.P.C.,
praying to call for the records in connection with C.C.No.8592 of 2019 on
the file of the Chief Metropolitan Magistrate, Chennai and to quash the
same.

For Petitioners : Mr.R.Joe Anand & Mr.M.Ravi
For Respondent : Mr.K.Seetha Ram



Crl.O.P.No.15407 of 2022

ORDER

WEB COPY

This petition has been filed to quash the C.C.No.8592 of 2019 on the file of the Chief Metropolitan Magistrate, Chennai, in which cognizance was taken for the alleged offence punishable under Sections 420, 419, 463, 465, 467, 468, 471, 120(b) of IPC, against the petitioners.

2. The case of the prosecution is that one Tr.P.D.Rajagopalan born on 07.04.1923, lost his father at the age of 5 years, leaving behind 6 male children and 2 female children and their mother. The 1st petitioner's mother-in-law, Pankajam's family, as a neighbour, had provided good care to the entire family. From the age of 8 years, Tr.P.D.Rajagopalan was living with petitioner's own mother-in-law's family and joined the Revenue Department in the year 1944, serving as Deputy Tahsildar in Chennai District Collectorate, retiring on 30.04.1978. He lived with the 2nd petitioner and died as a Bachelor on 06.11.2000. He had 5 brothers and 2 sisters, all of whom had passed away prior to the year 1995. The complainant is one of the children of Late P.D.Veeraraghavan, who was one of the brothers of the above-said P.D.Rajagopalan. P.V.Jayanthi is one of the 16 legal heirs but, in the private proceeding she claimed that P.D.Veeraraghavan is the only



CrI.O.P.No.15407 of 2022

brother to P.D.Rajagopalan, and even the other daughters and sons of P.D.Veeraraghavan represented as defendants in the affidavit did not enter the probate Court to give witness. Instead, R.Uma who later signed the forgery Will in the year 2010, was allowed to give witness even though she did not know about P.D.Rajagopalan.

3. The complaint was lodged against 7 accused persons, and the trial Court took cognizance in C.C.No.8592 of 2019 for the offence under Sections 420, 419, 463, 465, 467, 468, 471, 120(b) of IPC. The accused 1,3 and 4, who are father and sons, opposed the allegations and prayed to quash the proceedings as there are no basic ingredients to attract all those offences against them.

4. The learned counsel for the petitioners submitted that the alleged occurrence said to have taken place in the year 2000, but the complaint was lodged nearly 18 years later, and there is no explanation offered on the side of the respondent for inordinate delay. Based on the Will said to be executed by P.D.Rajagopalan dated 16.06.2000, the complainant claims right over the property. Previously, in probate proceedings initiated by him,



Crl.O.P.No.15407 of 2022

it has already been established that the will was not acceptable by the Court of law, therefore, complainant has no right over the property. All these years, these petitioners have had a valid right over the property. But suppressing all the facts, now the defacto complainant, challenging the validity of two gift deeds dated 24.08.2000 and 25.08.2000, said to be executed by P.D.Rajagopalan in favour of the petitioners 1 & 2, and all these years the documents have been in force. Therefore, in order to harass the petitioners, he has come forward with the false allegations without any prima facie materials. The trial Court took cognizance against them, which is erroneous and liable to be set aside.

5. The learned counsel appearing for the respondent / defacto complainant submitted that the said P.D.Rajagopalan is the brother of her father and there was a Will in her favour dated 16.06.2000, but the 1st petitioner, who is unknown to the family, created the forged document and executed the settlement deed in favour of his two sons, and creating all sorts of documents and causing annoyance to the original owners. However, there is a suit in O.S.No.866 of 2002 on the file of the XIII Assistant Judge, City Civil Court, Chennai, against these petitioners who are defendants in the



Crl.O.P.No.15407 of 2022

suit.

WEB COPY

6. On a perusal of the records, it reveals that, the 1st petitioner is the father, and 2nd and 3rd petitioners are sons of the 1st petitioner. All those days in previous Court proceedings the 1st petitioner represented his sons. The counsel for the petitioners submitted that the sons / petitioners 2 and 3 were abroad. The learned counsel for the respondent submitted that on all these days, in many of the proceedings, the petitioners 2 & 3 have not been appeared.

7. In response, the learned counsel for the petitioners submitted that the petitioners 1 & 2 are abroad, and appeared via virtual mode before this Court. On a previous occasion, there was an order passed by this Court in Crl.O.P.Nos.23698 & 23710 of 2015, order dated 30.08.2016, which was filed by the petitioners 2 & 3, representing their father as their power of attorney / Kalaivanan / 1st petitioner. Upon perusal of the Court order, it appeared as if the Court believed that they were harassed and disturbed by the respondents / P.V.Jayanthi Iyyengar, hence police protection was given to them. However, petitioners 2 and 3 were not at India and there is no



Crl.O.P.No.15407 of 2022

documentation to this effect that this Court was aware of all these facts.

Therefore, this Court is inclined to make an observation that this order was obtained by the concerned petitioners with the intention of suppressing these facts.

8. Upon observing the conduct of the petitioners 2 and 3, it is noted that all the cases were represented by their sons, who claim ownership of the property based on the settlement deed. However, on all previous occasions, these two individuals never appeared before this Court as suggested by the defacto complainant. Furthermore, according to the complainant, petitioners 1, 2 and 3 are 3rd are third party to the family. Nonetheless, the contention on the petitioner's side is that one Nalini was adopted as a daughter by P.D.Rajagopalan, and there are sons of Nalini, all of which are matters for trial.

9. There is no prima facie evidence to suggest that Nalini was adopted by P.D.Rajagopalan in accordance with the law. Based on the conduct of the 1st petitioner this Court is not inclined to quash the proceedings against them. Furthermore, a document dated 06.02.2012 is said to have been



Crl.O.P.No.15407 of 2022

executed by his sons who are settled abroad. Whether they have visited India over the years or not has not been proven by these petitioners.

Therefore, all the petitions are liable to be dismissed. Liberty is granted to the petitioners to present all their defences before the trial Court in accordance with the law.

10. Accordingly, this Criminal Original Petition is dismissed. Consequently, the connected miscellaneous petitions are closed.

18.03.2024

Index: Yes/ No
Neutral Citation: Yes/No

rri

To

The Chief Metropolitan Magistrate,
Chennai.



WEB COPY



Crl.O.P.No.15407 of 2022

T.V.THAMILSELVI, J.

ri

Crl.O.P.No.15407 of 2022
and
Crl.M.P.Nos.8638 & 8639 of 2022

18.03.2024