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CrI.O.P.No.15979 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.01.2024

CORAM:

THE HON'BLE MRS.JUSTICE T.V.THAMILSELVI

CrI.O.P.No.15979 of 2022

and

CrI.M.P.No. 8986 of 2022

1. O.V.Krishnan
2. Vijayakumari
3. Renukambal
4. Saraswathy
5. B.Lakshmi Kantham
6. P.Krishna Kumar
7. J.Manoharan

... Petitioners

Vs.

1. State
rep. by Inspector of Police,
District Crime Branch,
Anti Land Grabbing Special Cell,
Chengalpattu Dt.

2. V.Elango

.. Respondents

PRAYER : Criminal Original Petition filed under Sec.482 of Criminal Procedure Code, to call for the records pertaining to F.I.R. in Crime No.8 of 2022 on the file of 1st respondent police and quash the same as illegal.



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For Petitioners : Mr.T.Ayyasamy

For Respondents : Mr. S.Vinoth Kumar
Govt. Advocate (Crl. Side) for R1

Mr. Arvind Sreevatsa for R2

ORDER

This Criminal Original Petition has been filed seeking to quash the F.I.R. in Crime No.8 of 2022 on the file of 1st respondent police.

2. Heard both sides.

3. The petitioners herein are accused in Crime No. 8 of 2022 and based on the complaint given by 2nd respondent, the F.I.R. was registered against the petitioners for an offence under Sec.120-B, 420, 465, 467, 468, 471, 506(ii), 507 of I.P.C. At the time of lodging F.I.R., totally there are 8 accused, in which 6th accused Rajammal already died in the year of 2018, but she was also added as accused in the F.I.R.

4. The learned counsel for petitioners would submit that there was



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a dispute between 1st petitioner and one Mangammal, the defacto complainant's mother-in-law. She is totally a stranger to the property and she has no right over the property, but she lodged a complaint that all the properties are belong to her, which was bequeathed in favour of her by Venkatavaradha Reddy, who is a original owner of the property through a Will dated 14.01.1990. In fact, the learned counsel would submit that the petitioners are sons and daughters of Venkatavaradha Reddy and they are his legal heirs. After the death of their father, they have enjoyed the entire property. Subsequently, they have executed a document like Partition deed, Release deed and other conveyance deeds. But, by way of false claim through the alleged unregistered Will, Mangammal, who is no way connected with petitioner's family, represented through her son-in-law, who is 2nd respondent herein gave the said complaint. Based on that, the petitioners were falsely implicated as accused. Hence, they prayed to quash the proceedings as it is abuse of process of law.

5. By way of reply, the learned counsel for 2nd respondent would



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submit that during the life time of Venkatavaradha Reddy, he executed an unregistered Will in favour of one Mangammal, who is his mother-in-law and she is the absolute owner of entire extent of 12.07 acres situated at Vadapattinam Village, Cheyyur Taluk, Chengalpattu District. He would submit that now the petitioners have attempted to grab the entire property. Hence, the defacto complainant along with his mother-in-law gave a complaint as if she is having material evidence to show that the petitioners are not having any right over the property, but they are attempting to cause interference to their property. Accordingly, he raised objections to quash the proceedings.

6. The learned Government Advocate (Criminal side) would submit that due to the pendency of this Criminal Original Petition, the case is at the C.S.R. Stage.

7. By way of reply, the learned counsel for petitioners would



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submit that the suit property belong to their father Venkatavaradha Reddy by way of partition held in the family on 15.02.1970. In that partition, all these properties mentioned in the F.I.R. were allotted to him. During his life time, he enjoyed the property and thereafter, he died leaving behind his wife, sons and daughters. After the death of his wife, now sons and daughters, who are petitioners herein are enjoying the property and among themselves, they have divided the property, which cannot be questioned by Mangammal nor the 2nd respondent. But they are claiming right over the property. Accordingly, they prayed to quash the proceedings initiated against them.

8. Records perused. On perusal of records, it reveals that now Mangammal is claiming right over the property based on an unregistered Will said to be executed on 14.01.1990, but admittedly, Venkatavaradha Reddy died on 24.04.1991 nearly after four years after the execution of Will. But, on seeing the facts, even as per the recitals of Will, the said Mangammal said to be a sister of Venkatavaradha Reddy and out of love and affection, he executed the said Will. Admittedly, the said Mangammal is not original sister of Venkatavaradha Reddy and the petitioners are the



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original legal heirs of said Venkatavaradha Reddy and she is not able to establish that how she is related with their father Venkatavaradha Reddy.

So, the said Mangammal is a third party to the family of the petitioners as well as to the property. If at all, she is having any right over the property, first she has to prove the Will through court of law by invoking Sec.68 of Indian Evidence Act, without which, she is not entitled to claim any right over the property. It is a settled proposition, the beneficiary of the Will must prove the same by examining attesting witness of the Will before the court of law. Then only she can claim right over the property, however she is a third party to the proceedings and family. Therefore, based on an unregistered Will, she has no locus standi to claim right over the property and unless she proved the Will as it is valid and genuine one, she is not entitled to claim any right over the property. Hence, the proceedings initiated against the petitioners are abusing the process of law and is liable to be quashed. Accordingly, this Criminal Original Petition is allowed and the proceedings pertaining to First Information Report in Crime No. 8 of 2022 on the file of 1st respondent is quashed. Furthermore, since the suits are pending, both parties are directed to work



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out their remedy before the civil court. Consequently, the connected Criminal Miscellaneous Petition is closed.

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Index : Yes / No
Internet : Yes / No
Speaking/Non-speaking order
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To

1. Inspector of Police,
District Crime Branch,
Anti Land Grabbing Special Cell,
Chengalpattu Dt.
2. The Public Prosecutor,
High Court, Madras.

T.V.THAMILSELVI, J.



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