



CrI.O.P.No.23300 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.01.2024

CORAM:

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

CrI.O.P.No.23300 of 2019

and

CrI.M.P.No.12224 of 2019

S.Arvind Srinivasan

... Petitioner

Versus

1. State By : Inspector of Police,
Central Crime Branch-II,
Land Grabbing Special Cell-II,
Vepery, Chennai-7.
(Crime No. 27 of 2011)

Dr.K.Kuppurajan (died)

3. Chandralekha
4. K.Kanthakumar
5. A.Shanmuga Priya
6. V.Shanmugavalli

(R2 to R5 are Suo Motu brought on
record as legal heirs of deceased 2nd
respondent vide this court order
dated 10.01.2024)

... Respondents



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PRAYER : Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to call for the entire records in C.C. No.40 of 2016 on the file of the learned Judicial Magistrate, Tambaram, Chennai and quash the same.

For Petitioner : Mr.P.N.Swaminathan

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

Mr.E.Senthil Kumar for
LRs of R2

ORDER

This Criminal Original Petition has been filed to quash the charge sheet in C.C.No.40 of 2016 on the file of learned Judicial Magistrate Court, Tambaram, Chennai.

2. Heard both sides.

3. The case of the prosecution is that the properties measuring an extent of 5 acres 25 cents comprised in Survey No.437/2 measuring an extent of 17 cents, in Survey Nos.427/2, 412/1-19 cents and 2 acre and



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40 cents, Survey No.438, Perungalathur Village, Tambaram Taluk was purchased by the 2nd respondent/defacto complainant's grandfather Mr.N.K.Ayyasamy Mudaliar under the deed of sale dated 06.04.1965 and other dates. Subsequently, he died on 11.02.1968. After his demise, the said properties are devolved on 4 sons and 3 daughters and their legal heirs. They were in joint possession and enjoyment of the properties. Now, the 2nd respondent/defacto complainant lodged a complaint in respect of Survey No.437/2 measuring an extent of 5.25 acres stating that the petitioner colluding with other accused in forgery of family card, voter identity, death certificate, legal heirship certificates of actual owners of the property and falsely gave the complaint as the original document of the property in Survey No.437/2 was lost and got the non-traceable certificate and also issued general publication through an advocate. Subsequently, the above properties were got registered as agreement of sale and an agreement of joint development with the persons viz., S.M.Sivaprakasam, S.Harimurugan and M.Shivasankaran as the property executed by the actual legal heirs of Kuppusamy Mudaliyar to the above persons. Thereafter, the petitioner purchased the



said property alleged to have colluded with other accused in making forged documents and impersonation and executed the sale deed in favour of him. Hence, the complaint was lodged against the petitioner and he is arrayed as A10.

4. The learned counsel for petitioner would submit that the petitioner is a bonafide purchaser of the property measuring an extent of 2.40 cents in Survey No.438 and five others have purchased 25 cents in Survey No.437/2. On verification of previous records, he purchased the property from his vendor Kengusamy/A3 on 08.05.2007. Thereafter, he possessed and enjoyed the property as absolute owner and also obtained loan from the State Bank of India, Nungambakkam Branch. He had paid more than a sum of Rs.1 crore as sale consideration, but based on the complaint given by the 2nd respondent/defacto complainant, he was falsely implicated in this case. He ought to have been added as a witness in the said proceedings, but instead of that, he was added as accused, as such is totally erroneous one. As a bonafide purchaser, he has no role with regard to the impersonation and fabrication made by other accused



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before his purchase. Therefore, he pleaded innocence and also contended that there was no charges framed against him and there was no basic materials placed against him. Hence, he prayed to quash the proceedings.

5. The learned counsel for respondents 3 to 6, who are legal heirs of deceased 2nd respondent would submit that during the pendency of proceedings, 2nd respondent died. The learned counsel, who has appeared for his legal heirs would submit that even now he is ready to agree with the petitioner.

6. By way of reply, the learned Government Advocate (Criminal Side) raised objections stating that since it is a case of forgery and impersonation, based on the fabricated documents of the year 2005, the accused Kengusamy (A3) and Mahendran (A1) along with this petitioner grabbed the property from the original owners and documents were created. So, at this stage, it cannot be decided, since because the offence charged against him is grave in nature. To that effect, he relied on the ratio laid down in the authority reported in **2017 (9) SCC 641** in the case



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of **Parbatbhai Aahir @ Parbatbhai Bhimsinhbhai Karmur and others**

vs. State of Gujarat and another, wherein the Apex Court in para 18

held as follows:-

“18. The present case, as the allegations in the F.I.R. would demonstrate, is not merely one involving a private dispute over a land transaction between two contesting parties. The case involves allegations of extortion, forgery and fabrication of documents, utilisation of fabricated documents to effectuate transfers of title before the registering authorities and the deprivation of the complainant of his interest in land on the basis of a fabricated power of attorney. If the allegations in the F.I.R. are construed as they stand, it is evident that they implicate serious offences having a bearing on a vital societal interest in securing the probity of titles to or interest in land. Such offences cannot be construed to be merely private or civil disputes but implicate the societal interest in prosecuting serious crime. In these circumstances, the High Court was eminently justified in declining to quash the F.I.R. which had been registered under Sections 384, 467, 468, 471, 120-B and 506(2) of the Penal Code.”



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By relying the said ratio, the learned Government Advocate would submit that the case involves allegation of extortion, forgery and fabrication of document, which is against the societal interest in securing probity of title or interest in land and such offence cannot be construed to be merely private or civil dispute. Hence, he prayed to dismiss this petition.

7. On considering the facts and circumstances and considering both side submissions and also on seeing grave nature of offence, this Court is not inclined to quash the proceedings. Accordingly, this Criminal Original Petition is dismissed as no merit. Consequently, connected Criminal Miscellaneous Petition is closed.

10.01.2024

Index: Yes/No
Internet: Yes/No
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To
1. Inspector of Police,
Central Crime Branch-II,
Land Grabbing Special Cell-II,



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Vepery, Chennai-7.

2. The Public Prosecutor,
High Court, Madras.

T.V.THAMILSELVI, J.

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