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CrI.O.P.No.467 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.04.2024

CORAM

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

CrI.O.P.No.467 of 2024
& CrI.M.P.Nos. 718 & 5201 of 2024

1. V.Rajaram.
2. V.Karunakaran.
3. V.Eswari.
4. V.Ramanatha.
5. V.Kalavathi.
6. V.Vijayalakshmi.
7. V.Geetha.
8. V.Prema.

... Petitioners/Accused

/versus/

E.Vasudevan.

... Respondent/Defacto complainant

Prayer: Criminal Original Petition has been filed under Section 482 of Criminal Procedure Code, to call for the records in C.C.No.406 of 2022 on the file of Judicial Magistrate, Thiruvallur-I and quash the same as abuse of process of law.

For Petitioners : Mrs.Hema Srinivasan

For Respondent : Mr.T.Thangamani



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ORDER

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The petition to quash the private complaint taken cognizance by the Judicial Magistrate No.1, Tiruvallur in C.C.No.406 of 2022. The complaint alleging forgery and cheating in respect of a property at Tiruvallur District, Thamaraiakkam Village is the sum and substance of the complaint.

2. According to the complainant, the property in dispute was originally purchased by one Dhanappa Mudaliyar son of Kanagaraya Mudaliyar in the year 1954. The complainant Vasudevan is son of Elumalai who is the legal heir of Dhanappa Mudaliyar. According to the complainant, the said property was fraudulently transferred by one Ponnammal in favour of Ramanatha Naidu in the year 1968 and thereafter, Ramanatha Naidu in favour of Padmavathiammal in the year 1974, a portion of the property by Padmavathiammal in favour of Rajagopal Naidu and settlement deed by Padmavathiammal in favour of one of the accused Rajaram son of Vinayaga Mudaliyar were created. In this regard, the complaint to the police was not acted upon and therefore, petition before the Judicial Magistrate, No.I, Tiruvallur was filed under Section 156(iii) of Cr.P.C. Since no order has been passed on the complaint by the Judicial Magistrate, the complainant approached the High Court in CrI.O.P.No.19028 of 2020 to direct the Judicial Magistrate to take



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cognizance of the complaint. This Court directed the Judicial Magistrate to

number the petition and pass appropriate orders on merits. Accordingly, the

complaint was taken cognizance and process was issued to the accused. Since

case of forgery, fabrication of records and cheating been made out, offence

under Section 468, 471, 420 of I.P.C gets attracted. Against this complaint,

petition to quash filed by the accused persons stating that it is a case where the

complainant earlier tried to create record as if the property belongs to Dhanappa

Mudaliyar and he had inherited the property as one of the legal heir. He made a

complaint to the Collector alleging that one of the Tahsildar by name P.Velu in

connivance with the accused had created fabrication of revenue records. This

complaint to the Additional Chief Secretary, Commissioner of Land Reforms to

take action against the Tahsildar by name P.Velu was enquired by District

Collector, Tiruvallur. After hearing both sides and perusing the revenue

records, the District Collector has passed proceedings in

RC.No.12727/2014/A3, dated 09.02.2015 stating that the complainant

E.Vasudevan has no valid document to trace title through Dhanappa Mudaliyar

since no patta stands in the name of Dhanappa Mudaliyar as per the Village

account of Thamaraipakkam. Since the Revenue Department after perusing the

record had come to the conclusion that the complainant E.Vasudevan who

claims title through Dhanappa Mudaliyar, fail to establish that Dhanappa



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Mudaliyar has title over the property, the present complaint suppressing the proceedings of the District Collector been filed. Since, it is purely a civil dispute if at all the complainant has any right in the property as he claims it has to be established in a Civil Court based on the records. The records relied by the complainant has no relevance to the property in dispute as found by the proceedings of the District Collector dated 09.03.2015 and therefore, the complaint which has given a criminal colour to the title dispute has to be quashed.

3. The Learned Counsel appearing for the petitioners and the Learned Counsel appearing for the respondent/complainant had placed relevant documents relied by them to sustain their respective case.

4. This Court earlier when the matter came up for admission, granted stay of further proceedings since the case of civil dispute has given a criminal colour. The complainant/respondent has filed vacate stay petition stating that the documents through which the accused/petitioners rely upon are fabricated one and same has to be tested in the manner known to law.

5. This Court on perusing all these documents particularly the



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proceedings of the District Collector, Tiruvallur dated 09.03.2015 which has clearly narrated the sequence of transfer of property of the subject land and the documents produced by the complainant in comparison with the Revenue records had arrived at conclusion that the Dhanappan Mudaliyar to whom the complainant trace his title had no patta in his name as per the village account of Tamaraipakkam. While so, he cannot made out the criminal case alleging that the petitioners have fabricated document in respect of the property and grabbed his land. Even according to his own complaint, this Court finds that the said Dhanappa Mudaliyar had left 16 legal heirs and this complainant is one among them. None of the revenue records he relies upon touches or refers the property in dispute as per the findings of the District Collector in his proceedings does not tally with the survey numbers which are under dispute, same is clearly found in the said proceedings.

6. The contention of the Learned Counsel appearing for the respondent/complainant is that after UDR survey, the identity of the property has been altered as if Vinagaya Mudaliyar and his wife Padamvathiammal are the parents of the respondents/petitioner to show them as owners of the property.



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7. This Court finds that this aspect has also been looked into by the

WEB DISTRICT Collector while passing the proceedings referred above. The complainant who is party to the proceedings neither challenge the said proceedings, nor filed any civil suit to ascertain his title. Instead, he has conveniently approached the Magistrate Court in the year 2020 and filed a petition which was not entertained by the Judicial Magistrate. Thereafter, he approached the Hon'ble High Court under Section 482 of Cr.P.C., to dispose of the complaint. The Judicial Magistrate in view of the direction given by the Court had taken cognizance of the complaint and had caused process and there is no indication in the proceedings of the Judicial Magistrate that he had gone through the documents relied by the complainant, applied his mind for taking cognizance of the offence as alleged in the complaint. Hence, this Court finds that the criminal complaint is not sustainable in view of the fact that the complainant has not established his title over the property and that can be done only through Civil Court and not by lodging a criminal complaint.



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8. With the above observation, this Criminal Original Petition is allowed. The complaint in C.C.No.408 of 2022 on the file of Judicial Magistrate, Tiruvallur-I, stands quashed. Consequently, the connected Miscellaneous Petitions are closed. It is open to the complainant/respondent to work out his remedy in appropriate civil forum if he wishes so.

15.04.2024

Index : Yes/No
Neutral Citation : Yes/No
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Copy to:-

1. The Judicial Magistrate, Thiruvallur-I.

DR.G.JAYACHANDRAN,J.



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