



CrI.O.P.(MD)No.8276 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 28.02.2024

CORAM

THE HON'BLE MR.JUSTICE M.DHANDAPANI

CrI.O.P.(MD)No.8276 of 2022

and

CrI.M.P.(MD)No.5594 of 2022

1.Thangaraj

2.Poomathi

... Petitioners

Vs.

1.The State rep.by
The Inspector of Police,
District Crime Branch,
Kanyakumari District.
Crime No.47 of 2014

2.Poomathi

... Respondents

PRAYER : Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to call for the records relating to the charge sheet in C.C.No.66 of 2021 on the file of the Special Judicial Magistrate for Land Grabbing Cases, Tirunelveli in Crime No.47 of 2014 on the file first respondent and quash the same against the petitioners as illegal.



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For Petitioners : Mr.S.Sivakumar

For R1 : Mr.P.Kottaichamy,
Government Advocate (Crl. Side)

For R2 : No Appearance

ORDER

This Criminal Original Petition has been filed to quash the charge sheet in C.C.No.66 of 2021 on the file of the learned Special Judicial Magistrate for Land Grabbing Cases, Tirunelveli.

2.The case of the prosecution is that the second respondent is the owner of the property in S.No.163/16, situated at Maruthancode village. The petitioners herein had a property in S.No.169/9C at Maruthancode village and they sold 4 cents land to A3 by specifying the boundaries of the second respondent's property in S.No.163/16. A3, in turn, executed settlement deed in favour of his wife, who is arrayed as A4 and thereby, the accused persons grabbed the second respondent's property. Therefore, the second respondent filed a complaint before the first



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respondent, based on which, FIR in Cr.No.47 of 2014 for the offences under Sections 420, 468, 471 IPC. Upon completion of investigation, the first respondent filed charge sheet, which was taken on file in C.C.No.66 of 2021 by the learned Special Judicial Magistrate for Land Grabbing Cases, Tirunelveli. At the time of filing charge sheet, the matter was compromised in between A3, A4 and the second respondent. A3 and A4's name were also deleted from the charge sheet, however, there is no compromise between the petitioners and the second respondent.

3.The learned counsel appearing for the petitioners submitted that the petitioners have not prepared any bogus documents or cheated the defacto complainant. In fact A3, A4 and the second respondent entered into compromise and the defacto complainant got back her property and thereby, the boundary issue goes. Therefore, forcing the petitioners to face the trial is not sustainable one. In support of his contention, he relied upon the decision of the Hon'ble Apex Court in ***State of Haryana – Vs - Bhajan Lal (1992 SCC (CrI.) 426).***



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4.The learned Government Advocate(Crl.side) appearing for the first respondent submitted that the first respondent has conducted a fair investigation and after examining the necessary witnesses and collecting all materials, he has filed the final report, which has been taken cognizance of by the court below. He further submitted that all the grounds raised in the present petition are triable issue and the same cannot be agitated before this Court under Section 482 Cr.P.C. Accordingly, he prayed to dismiss the present petition.

5.Though the name of the second respondent printed in the cause list, no one appeared on behalf of her.

6.It is seen that the second respondent owns property in S.No.163/16 and the petitioners, claiming that they are the owners, had executed sale deed in favour of A3 and A4 by mentioning the boundaries of the defacto complainant's property. Hence, she filed a complaint. At the time of filing charge sheet matter was compromised in between A3, A4 and the second respondent and the document was also alienated in favour of the second respondent. However, there is no compromise



between the petitioners and the second respondent. When the boundary issue settled between A3, A4 and the second respondent, forcing the petitioners herein to face the trial is malicious one.

7. Useful reference in this regard can be had to the decision of the Hon'ble Apex Court in ***State of Haryana – Vs - Bhajan Lal (1992 SCC (Crl.) 426)***, wherein, the Hon'ble Apex Court held as under :

“102. In the backdrop of the interpretation of the various relevant provisions of the Code under Chapter XIV and of the principles of law enunciated by this Court in a series of decisions relating to the exercise of the extra-ordinary power under Article 226 or the inherent powers under Section 482 of the Code of Criminal Procedure, which we have extracted illustration wherein such power could be exercised either to prevent abuse of the process of any Court or otherwise to secure the ends of justice, though it may not be possible to lay down any precise, clearly defined and sufficiently channelised and inflexible guidelines or rigid formulae and to give an to give an exhaustive list of myriad kinds of cases wherein such power should be exercised:

(1) where the allegations made in the First



Information Report or the complaint, even if they are taken at their face value and accepted in their entirety do not prima facie constitute any offence or make out a case against the accused;

(2) where the allegations in the First Information Report and other materials, if any, accompanying the F.I.R. do not disclose a cognizable offence, justifying an investigation by police officers under Section 156(1) of the Code except under an order of a Magistrate within the purview of Section 155(2) of the Code;

(3) where the uncontroverted allegations made in the FIR or 'complaint and the evidence collected in support of the same do not disclose the commission of any offence and make out a case against the accused;

(4) where, the allegations in the FIR do not constitute a cognizable offence but constitute only a non-cognizable offence, no investigation is permitted by a police officer without an order of a Magistrate as contemplated under Section 155(2) of the Code;

(5) where the allegations made in the FIR or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever reach a just conclusion that there is sufficient



ground for proceeding against the accused;

(6) where there is an express legal bar engrafted in any of the provisions of the Code or the concerned Act (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/or where there is a specific provision in the Code or the concerned Act, providing efficacious redress for the grievance of the aggrieved party;

(7) where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge.”

8.The seventh category of the above said judgment is squarely applicable to the case on hand. The second respondent compromised the matter with some of the accused persons and also got back her possession. Therefore, the petitioners herein need not to face the trial for malicious prosecution. Accordingly, the impugned charge sheet in C.C.No.66 of 2021 pending on the file of the learned Special Judicial Magistrate for Land Grabbing Cases, Tirunelveli is hereby quashed.



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9.In the result, this criminal original petition is allowed.

Consequently, connected miscellaneous petition is closed.

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NCC : Yes / No
Index : Yes / No
Internet : Yes / No
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To

- 1.The Special Judicial Magistrate for Land Grabbing Cases,
Tirunelveli.
- 2.The Inspector of Police,
District Crime Branch,
Kanyakumari District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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M.DHANDAPANI,J.

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