



CrI.O.P.(MD) No.14995 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 08.01.2024

CORAM

THE HON'BLE MRS.JUSTICE R.HEMALATHA

CrI.O.P.(MD) No.14995 of 2020

and

CrI.M.P.(MD) No.7182 of 2020

1.N.Jothi

2.J.Uma

... Petitioners

Vs.

1.The State rep. by its
The Inspector of Police,
District Crime Branch,
(Anti Land Grabbing Special Cell),
Thanjavur District.
(Crime No.3 of 2013)

2.Hathijammal @ Hathija Beevi

... Respondents

Prayer: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, 1973, praying to call for the records pertaining to the final report and consequent proceedings in C.C.No.08 of 2019 on the file of the Judicial Magistrate Court, Thiruvaiyaru, Thanjavur District for the alleged offences under Sections 120(B), 420, 423, 465, 468 and 471 of IPC and quash the same as against the petitioners.



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For Petitioners : Mr.G.Gomathi Sankar
For R1 : Mr.S.Manikandan
Government Advocate (Crl. Side)
For L.Rs. of R2 : Mr.A.Senthil Kumar

ORDER

Challenging the final report in C.C.No.8 of 2019 on the file of the Judicial Magistrate Court, Thiruvaiyaru, Thanjavur District [Crime No.3 of 2013 of District Crime Branch, (Anti Land Grabbing Special Cell), Thanjavur District)], the present Criminal Original Petition is filed.

2. The petitioners are accused 1 & 2. The second respondent/*de facto* complainant preferred a complaint and the first respondent registered FIR in Crime No.3 of 2013 against the petitioners and one Mohammed Maideen for the offences punishable under Sections 120(b), 147, 148, 341, 420, 447, 506(i), 465, 467, 468 & 471 of the Indian Penal Code, 1860 [hereinafter referred to as 'IPC']. After the investigation, a Charge Sheet was filed against the accused for the offences punishable under Section 120(B), 420, 423, 465, 468 & 471 of IPC.



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3. The case of the petitioners/A1 & A2 is that a Civil Suit was filed by the second respondent/*de facto* complainant in O.S.No.5 of 2008 before the District Munsif Court, Thiruvaiyaru, Thanjavur District for declaration of title to the property situate in S.No.366/1 of Kalyanapuram Muthal Sethi Village, Thiruvaiyaru Taluk and for a permanent injunction restraining the second petitioner/A2, one S.Suresh and A.Mohammed Mohaideen/A3 from interfering with the peaceful possession and enjoyment of the said property. Despite the same, he had lodged a false criminal complaint against them in Crime No.3 of 2013 as if they had created certain documents including the Sale Deeds and Patta.

4. Mr.G.Gomathi Sankar, learned counsel for the petitioners drew the attention of this Court to Section 161(3) of Cr.P.C. Statement of Thasildar, Thiruvaiyaru Taluk, Thanjavur District, wherein, the Thasildar has stated that a mistake has crept in while issuing UDR Patta in favour of the petitioners' vendors. According to the learned counsel, in the said circumstances, it cannot be stated that the present petitioners/A1 & A2 had fabricated the documents and that the petitioners had actually purchased the property from A.Mohammed Mohaideen/A3 and ever since



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the date of purchase, they have been in possession and enjoyment of the property.

5. Mr.A.Senthil Kumar, learned counsel appearing for the legal heirs of the second respondent/*de facto* complainant would contend that the petitioners had actually fabricated the documents with regard to the property in S.No.366/1A & 366/1B of Kalyanapuram Muthal Sethi Village, Thiruvaiyaru Taluk and the said property actually belong to the second respondent/*de facto* complainant namely, Hathijammal @ Hathija Beevi. He would further contend that the police after conducting thorough investigation filed a charge sheet before the Judicial Magistrate Court, Thiruvaiyaru, Thanjavur District in C.C.No.8 of 2019 and therefore prayed for dismissal of the present Criminal Original Petition.

6. Mr.S.Manikandan, learned Government Advocate (Crl. Side) appearing for the first respondent would contend that the case is posted for trial on 28.03.2024 and that there is no reason for this Court to quash the entire proceedings in C.C.No.8 of 2019 on the file of the Judicial Magistrate Court, Thiruvaiyaru, Thanjavur District.



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7. Thought it is the contention of the learned counsel appearing for the petitioners that the petitioners/A1 & A2 purchased the property in S.No.366/1A of Kalyanapuram Muthal Sethi Village, Thiruvaiyaru Taluk from A.Mohammed Mohaideen/A3, it is not known as to whether he verified the parent documents. In fact, in the suit in O.S.No.5 of 2008 which was filed by the second respondent/*de facto* complainant before the District Munsif Court, Thiruvaiyaru, the defendants therein namely, the second petitioner/A2, one S.Suresh and A.Mohammed Mohaideen/A3, in their Written Statement had taken a plea that they have perfected their title by way of adverse possession and prescription. It is not their case that they purchased the property through a Sale Deed from A3. Thus, the plea taken before the District Munsif is totally in contradiction to the present plea taken before this Court. The suit in O.S.No.5 of 2008 which was filed for declaration of title and permanent injunction by the second respondent/*de facto* complainant was decreed in her favour and first appeal in A.S.No.102 of 2010 on the file of the Additional Sub Court, Thajavur, was dismissed on 23.06.2011, as against which, a second appeal in S.A.(MD) No.64 of 2012 was filed before this Court. A Single Bench of this Court *vide* its Judgment dated 08.06.2022 dismissed the second appeal filed by the second petitioner/A2 along with two others by clearly



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giving a finding that the second petitioner/A2 and two others had not proved their plea of perfecting their title by way of adverse possession and prescription.

8. It is settled law that Patta is not a document of title and the contention of the learned counsel for the petitioners that there is a change in UDR number while issuing Patta cannot therefore be accepted for the simple reason that Patta has been obtained fraudulently by these petitioners. Trial is yet to commence and in the circumstances, I do not find any reason to quash the proceedings in C.C.No.8 of 2019 on the file of the Judicial Magistrate Court, Thiruvaiyaru, Thanjavur District.

9. Accordingly, this Criminal Original Petition is dismissed. Consequently, connected Miscellaneous Petition is closed.

08.01.2024

Index: Yes/ No
Neutral Citation: Yes / No
Speaking Order / Non-Speaking Order

JEN



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To

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- 1.The Judicial Magistrate,
Thiruvaiyaru,
Thanjavur District.
- 2.The Inspector of Police,
District Crime Branch,
(Anti Land Grabbing Special Cell),
Thanjavur District.



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R.HEMALATHA, J.

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