



Crl.O.P.(MD)No.21962 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 26.02.2024

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

Crl.O.P.(MD)No.21962 of 2022

L.Baskar

... Petitioner

Vs.

1.K.S.Krishnamoorthy

2.K.S.Devadoss

3.Kalavathi

4.Govindaraman

5.Sai Prabhu

6.Rajagopal

... Respondents

PRAYER:- Petition filed under Section 482 of Cr.P.C., to call for the records pertaining to the order dated 27.06.2022 made in Crl.R.P.No.32 of 2020 on the file of the 1st Additional District and Sessions Judge (PCR), Thanjavur, in conforming the order of learned Judicial Magistrate No.1 in Crl.M.P.No.479 of 2020 dated on 14.05.2020 and to set aside the same and direct the learned Judicial Magistrate No.1, Thanjavur, to take cognizance of the offence on the basis of the complaint and documents and issue process to the respondents and to conduct trial in accordance with law.

For Petitioner : Mr.A.Senthil Kumar

ORDER

This petition has been filed to set aside order dated 27.06.2022 made in Crl.R.P.No.32 of 2020 on the file of the 1st Additional District and Sessions



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Judge (PCR), Thanjavur, in conforming the order of learned Judicial Magistrate No.1 in Crl.M.P.No.479 of 2020 dated on 14.05.2020 and to set aside the same and direct the learned Judicial Magistrate No.1, Thanjavur, to take cognizance of the offence on the basis of the complaint and documents and issue process to the respondents and to conduct trial in accordance with law.

2. The case of the prosecution is that the property comprised in S.No. 1868/3 is the ancestral property. The patta stands in the name of the petitioner's father namely, Loganathan. For the very same property, the respondents 1 & 2 fabricated the patta as if it was issued by the Government. Based on the forged patta, they executed a sale deed in favour of the third respondent vide D.No. 5834/2014. Though the respondents 1 & 2 have no right over the property, based on the forged patta, they executed a sale deed in favour of the third respondent. Aggrieved by the illegal action, the petitioner filed a private complaint in Crl.M.P.No.479 of 2020 under Section 200 Cr.P.C., and the same was dismissed on 14.05.2000. Against which, he filed an appeal before the 1st Additional District and Sessions Judge (PCR), Thanjavur, in Crl.RP.No.32 of 2020 and the same was dismissed on 27.06.2022. Challenging the same, the petitioner filed this petition under Section 482 of Cr.P.C.,



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3.The learned counsel appearing for the petitioner would submit that admittedly, the petitioner's father is the owner of the property. However, the respondents 1 & 2 herein have created a forged patta and executed a sale deed in favour of the third respondent, is not sustainable one. Both the trial Court and the Appellate Court concurrently held that the entire dispute is civil in nature and also directed the petitioner to approach the competent civil Court for appropriate remedy, which is not sustainable one. Accordingly, he prayed for appropriate orders.

4.Heard the learned counsel for the petitioner.

5.Though private notice was ordered, till date service is not yet completed.

6.The issue to be decided in this petition is whether the petitioner has right to initiate a complaint against the respondents or not.

7.However, the learned counsel appearing for the petitioner fairly submitted that in respect of patta fabricated by the respondents 1 & 2, already, the petitioner filed an appeal before the Revenue Divisional Officer, Thanjavur



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and the same is pending.

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8. It appears that already, the alleged patta proceedings is pending before the Revenue Divisional Officer, Thanjavur, for the very same issue, the petition filed by the petitioner cannot be adjudicated by the trial Court under Section 200 Cr.P.C., which was dismissed by the trial Court and confirmed by the Appellate Court and the same cannot be intervened.

9. Accordingly, this Criminal Original Petition is dismissed.

10. However, the petitioner is at liberty to approach the appropriate civil Court for appropriate remedy. If any suit is filed, the trial Court is directed to decide the issue without influencing any of the findings made by the lower Courts or by this Court.

26.02.2024

Index : Yes/No
Internet : Yes/No
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To

1.The 1st Addtitional District and Sessions Judge (PCR),

Thanjavur.

2.The Judicial Magistrate No.1,

Thanjavur.

M.DHANDAPANI, J.



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