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Court : Chennai Madurai

Decided On : Feb-24-2017

Judge : P. Kalaiyarasan

Appeal No. : Criminal Original Petition (MD) No. 11476 of 2010 & M.P. (MD) Nos. 2 & 3 of 2010

Appellant : Jakumar Christudoss and Others

Respondent : State rep. by The Inspector of Police, Central Crime Branch, Madurai City and Another

Judgement :

(Prayer: Criminal original petition is filed under Section 482 of Cr.P.C., to call for the records pertaining to C.C.No.200 of 2009 on the file of the Judicial Magistrate No.1, Madurai and quash the proceedings as against the petitioner herein.)

1. This criminal original petition has been filed under Section 482 of Cr.P.C., praying to quash the proceedings in C.C.No.200 of 2009 on the file of the Judicial Magistrate No.1, Madurai as against the petitioner herein.

2. It is averred in the petition that the second respondent lodged a complaint in the first respondent police and charge sheet has been laid against the petitioners alleging that the petitioners joined together and created forged documents by

amending the survey number from 5/3B-2D2 to 5/3B-2D3 so as to grab 13 cents land belonging to the defacto complainant. The first respondent has not conducted the investigation properly. He has not even noticed the death of the first accused even before lodging the complaint. Without analysing the land acquisition award, the order of RDO and pendency of civil suit in O.S.No.736 of 2007 on the file of the Additional District Munsif, Madurai filed by A3 to A5 against the defacto complainant, charge sheet has been laid. As per the acquisition proceedings and RDO order, 13 cents of land in S.F.No. 5/3B-2D3 as found in the rectification deed belongs to John C. Martin, the husband of the first accused. Offences as alleged by the prosecution are not made out as against the petitioners and therefore, the proceedings as against the petitioners are to be quashed.

3. The learned counsel for the petitioner contends that a civil dispute has been converted into a criminal case and that as per the revenue records and acquisition proceedings, 13 cents of land in S.F.No.5/3B-2D3 belongs to the John C.Martin and therefore, the sale deed executed by A1 and A2 in favour of A3 to A5 is a valid document and the offences as alleged in the charge sheet are not made out.

4. The learned Government Advocate (criminal side) interalia contends that as per the documents and the statements of witnesses gathered, offences as alleged in the charge sheet are made out and the defence basing on the acquisition proceedings are to be taken only before the trial Court and therefore, the criminal original petition is liable to be dismissed.

5. No doubt, the copy of the death certificate of Christy Martin has been filed in the typed set. As per this certificate, Christy Martin passed away on 05.10.2008. But, the FIR is found registered on 09.06.2009 and charge sheet has been laid on 24.09.2009. The investigating officer laid charge sheet including a dead person as if she is alive. However, the irregularities committed by the investigating officer cannot be a ground to throw out the entire case of the prosecution.

6.The main contention raised by the learned counsel for the petitioner is that as per the acquisition proceedings and RDO order, only 5 cents of land was acquired in S.F.No.5/3B-2D2 and after acquisition of 5 cents, remaining 13 cents was subdivided as S.F.No.3B-2D3. It is found from the records that against RDO order,

there is DRO order in the revision. After considering the DRO order and other evidence, the investigating officer laid charge sheet against the petitioner. The subsequent purchasers viz., A3 to A5 filed a suit in O.S.No.736 of 2007 before the Additional District Munsif, Madurai and the same is also pending.

7. As rightly pointed out by the learned Government Advocate (criminal side), the contention of the petitioner that as per the acquisition proceedings and other documents, the land was subdivided and it belongs to John C. Martin can be taken as defence before the trial Court and disprove the case of prosecution through evidence. But, as per the materials filed along with the charge sheet, this Court is of the considered view that offences as alleged in the charge sheet are made out against the petitioners and it is not a fit case to invoke the jurisdiction of this Court under Section 482 of Cr.P.C.

8. In the result, this criminal original petition is dismissed. Consequently, connected miscellaneous petitions are also dismissed.

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