

HIGH COURT OF MADRAS**Date of Decision: 04.03.2024.****CORAM: THE HONOURABLE MRS.JUSTICE R. HEMALATHA**

Crl.O.P.(MD)No.3643 of 2021 & Crl.M.P.(MD)Nos.2014 & 2015 of 2021

M.Suriya Prabha ... Petitioner**Versus****1.State rep by. Inspector of Police,****Anti-Land Grabbing Special Cell, Ramanathapuram District.****2.M.K.Mohammed Ali ... Respondents****Legislation:**

Section 482 of the Code of Criminal Procedure,

Sections 420, 423, 465, 468, 471, 120(b) of the Indian Penal Code (IPC),

Section 52 of the Registration Act, 1908,

Rule 55 of the Registration Rules,

Subject: Petition to quash final report in C.C.No.435 of 2019 for alleged criminal conspiracy in a property registration matter.**Headnotes:**

Criminal Procedure – Quashing of Proceedings – The petitioner sought to quash the final report in C.C.No.435 of 2019 concerning alleged offenses under IPC sections 420, 423, 465, 468, 471 read with 120(b). The petitioner, a Sub Registrar, was accused of conspiring in the registration of a fraudulent settlement deed. [Para 1, 2]

Duties of Registering Officers – Analysis of Section 52 of the Registration Act, 1908 – The court observed that the Registration Act does not impose a duty on registering officers to verify the title or ownership of properties during registration. The role of the Sub Registrar in verifying document genuineness was scrutinized. [Para 5-6, 7]

Absence of Specific Allegations and Evidence – Held – The Court found no specific allegations or evidence to substantiate the claim of the petitioner's conspiracy with other accused in fabricating documents. The final report against the petitioner was deemed unsustainable for lack of concrete allegations or evidence. [Para 8]

Decision – Quashing of Proceedings Against Petitioner – The Court quashed the final report against the petitioner in C.C.No.435 of 2019, thereby allowing the Criminal Original Petition. The absence of duty to verify documents and lack of specific allegations led to this conclusion. [Para 9]

Referred Cases: None.

Representing Advocates:

For Petitioner: Mr.M.Deivanandam

For Respondents: Mr.M.Sakthi Kumar, Government Advocate (Criminal Side) for R1; Mr.B.Arun for R2

ORDER

1. Seeking to quash the final report in C.C.No.435/2019 on the file of the Judicial Magistrate, Ramanathapuram, the present petition is filed by the 8th accused.
2. The case of the prosecution in a nutshell is as follows.

2.1. There was a civil dispute between one Raja Kumaran Sethupathy and one Muniyandi, the President of Vannar Association in O.S.No.97/1997 before the Sub Court, Ramanathapuram in respect of the lands in S.Nos.113 to 120 of Surakottai Village. A compromise decree was passed on 30.01.2006, whereby, the plaintiff Raja Kumaran Sethupathy was directed to execute sale deeds in favour of the persons mentioned by the defendant Muniyandi. Subsequently, the plaintiff sold his share of land measuring 3.44 cents to and in favour of M.K.Mohammad Ali through a registered sale deed dated 02.01.2008. He also sold 871 square feet of land to the father of M.K.Mohammad Ali through a registered sale deed dated 26.05.2008. While so, Muniyandi, the defendant in O.S.No.97/1997 conspired with the other accused and created a bogus Town Survey Field Register and an Encumbrance Certificate and executed a registered settlement deed for the same land in favour of Thangavel (A2), son of Koori on 27.07.2015, who in turn executed a General Power of Attorney in favour of one Saravanan (A4). Based on the complaint given by M.K.Mohammad Ali (defacto complainant), the Inspector of Police, Anti-land grabbing cell,

Ramanathapuram District registered FIR in Crime No.53/2015 against eight accused persons including the present petitioner for the offences punishable under Sections 420, 423, 465, 468, 471 r/w 120(b) IPC. After concluding investigation, he filed a final report in C.C.No.435/2019 before the Special Judicial Magistrate (Land Grabbing cases), Ramanathapuram against 8 accused persons for the offences punishable under sections 420, 423, 465, 468, 471 r/w 120(b) IPC and subsequently it was transferred to Judicial Magistrate Court, Ramanathapuram. The petitioner was working as Sub Registrar in the Sub Registrar Office at Velipattinam, Ramanathapuram. The specific allegation against the present petitioner is that he conspired with other accused A1 to A7 and even without verifying the bogus Encumbrance Certificate and Town Survey Field Register, had registered settlement deed executed by A1 in favour of A2 on 27.07.2015.

3. Mr.M.Deivanandam, learned counsel appearing for the petitioner would contend that as per Section 52 of the Registration Act, the Sub Registrar has to register a document unless there is an objection from any party at the time of registration of document. His specific contention is that the registering officer is not duty bound to verify the title and ownership of the persons who alienate the property and Rule 55 of the Registration Rules does not provide any enquiry to be conducted by the Registering Officer with regard to the right and ownership of the property. It is also his contention that the petitioner as a Sub Registrar had discharged his official duty and therefore cannot be fastened with criminal liability for the offences punishable under Sections 420, 423, 465, 468, 471 r/w 120(b) IPC. It is also his contention that there are no materials available on record to show that the petitioner conspired with other accused to fabricate the document.
4. Per contra, Mr.M.Sakthi Kumar, learned Government Advocate (Criminal Side) appearing for the first respondent and Mr.B.Arun, learned counsel

appearing for the second respondent would contend that the Police after conducting proper investigation had laid a final report and there are no valid grounds to quash the same and that the Sub Registrar had in fact conspired with the other accused and registered the settlement deed executed by A1 in favour of A2 even without verifying the records and therefore, prayed for dismissal of the petition.

5. It is relevant to extract Section 52 of the Registration Act, 1908.

"52. Duties of registering officers when document presented.

(1)(a) The day, hour and place of presentation, [the photographs and finger-prints affixed under section 32-A] and the signature of every person presenting a document for registration, shall be endorsed on every such document at the time of presenting it;

(b) a receipt for such document shall be given by the registering officer to the person presenting the same; and

(1-A) Subject to the provisions contained in Section 62, where any document not being of the class specified in the rules made under sub-section (3) is admitted to registration, it shall, without unnecessary delay, be copied in the appropriate book according to the order of its admission.

(1-B) Subject to the provisions contained in Section 62 and in the rules made under sub-section (3) and (4) and under Section 89-A, where any document of the class specified in the rules made under subsection (3) is admitted to registration, a true copy thereof shall, without unnecessary delay, be filed in the appropriate book according to the order of its admission.

(2) All such books shall be authenticated at such intervals and in such manner as is from time to time prescribed by the Inspector-General.

(3) The State Government may, from time to time, specify by the rules the classes of documents in respect of which true copies shall be filed in the appropriate book under sub-section 1-B.

(4) The true copy referred to in sub-section 1-B shall be neatly hand written, printed, typewritten, lithographed or otherwise

prepared in accordance with such rules as may be made in this behalf.

(5) The provisions of this Act shall, in their application to the classes of documents specified in the rules made under subsection (3), have effect subject to the modification set out in the schedule."

6. A perusal of Section 52 of the Registration Act shows that the registering officer has not been directed to verify the title and ownership of the person who alienates his property. He is bound to register the document if the document is presented with proper stamp duty levied on the document and the registration charges. In fact, the registering authority cannot sit over the document presented for registration questioning the title and ownership of the person who executes sale deeds, settlement deeds, etc.

7. In the instant case, the Sub Registrar at Velipattinam, Ramanathapuram (A8) has discharged his official function in his capacity as Registering Authority. It is not the duty of the Sub Registrar to verify or find out about the genuineness of any document. No such duty is enjoined upon by the Registration Act, 1908 or any other law in force. He also has no means to conduct such enquiry. If the Sub Registrar initiates such enquiry or denies registration on the basis of such enquiry, he may have to face disciplinary action for the same. Moreover, it is the duty of the buyer to ascertain about the details of the land he is purchasing or face consequences.

8. A close reading of Rule 55 of Registration Rules shows that the registering authority is bound to consider objections on the grounds which are stated in the said Rules. Rule 55 does not provide enquiry by the registering officer with regard to the title and ownership of the seller. Though it is

contended by the prosecution that the Sub Registrar conspired with the other accused and fabricated a document, there is no specific allegation in the statements of witnesses recorded by the police under Section 161(3) Cr.P.C. Therefore, the final report filed against the present petitioner / 8th accused cannot be sustained for a moment's scrutiny. Moreover, the settlement deed executed in favour of Thangavel (A2) on 27.07.2015 was cancelled on 03.07.2017 vide a registered cancellation deed.

9. Accordingly, the final report in C.C.No.435 of 2019 on the file of the Judicial Magistrate, Ramanathapuram is quashed insofar as the petitioner is concerned and the Criminal Original Petition is allowed. Consequently, connected Miscellaneous Petitions are closed.

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