



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 20.12.2013

THE HON'BLE MRS.JUSTICE ARUNA JAGADEESAN

CRL.R.C. (MD) No. 648 of 2013

Ramasami Kone ... Petitioner/Complainant

Vs.

Baluchami ... Respondent/Accused

Prayer: Criminal revision petition filed under Section 397(1) of Criminal Procedure Code against the order dated 27.08.2008 passed in Cr.M.P.No.3196 of 2008 on the file of the learned District Munsif-cum-Judicial Magistrate, Illayangudi, Sivagangai District.

For Petitioner : Mr.S.Pugalendhi

For Respondent : Mr.P.Subbaraj

O R D E R

This revision is filed challenging the order dated 27.08.2008 passed in Cr.M.P.No.3196 of 2008 on the file of the learned District Munsif-cum-Judicial Magistrate, Illayangudi, Sivagangai District dismissing the petition filed under Section 200 Cr.P.C., for taking cognizance and issue summons to the accused under Section 500 I.P.C.

2. The short facts of the case are as follows:

The petitioner had purchased property in Survey No.41/2 and 43/6 at Kandani Village and constructed rice mill for the welfare of the village people by charging very low rates for the grinding work. The respondent herein gave a bogus ration card and obtained two television sets under the Free T.V. Scheme of the State Government. Therefore, the petitioner had made a complaint against the illegal act of the respondent with the concerned police and based on that, necessary proceeding was initiated and the same is pending against the respondent. Due to the said motive, the respondent gave a false complaint against the petitioner on 22.07.2005 before the District Collector to cancel the patta granted to the petitioner. However, on 02.06.2008, the above complaint was dismissed by the District Collector. In spite of that, the respondent was making false propaganda that the petitioner has put up bore well in Survey No.1/1 of Sethoor Village in Sivagangai District in a poramboke land. Hence the petitioner was constrained to issue a legal notice on 19.07.2008 to the respondent demanding to stop his illegal acts and illegal propaganda and informing him that he will take necessary action against the respondent if he fails to stop such illegal propaganda. However, since the respondent did not stop the illegal propaganda, the petitioner was constrained to file a complaint before the learned Magistrate on which the impugned order was passed by the learned Magistrate dismissing the complaint on the ground that the petitioner has failed to prove his ownership to the lands and has stated that the remedy available for the



petitioner is only before the civil forum to prove his ownership for the lands.

3. The learned counsel for the petitioner has produced a copy of the sale deed in favour of the petitioner with patta and plan to prove the ownership of the petitioner to the lands in Survey Nos.41/2 and 43/6 and he has also produced a sale deed in favour of the petitioner in respect of Survey No.1/1 of Sethoor Village in Sivagangai District in which he had dug the bore well.

4. The learned counsel for the petitioner has brought to the knowledge of this Court that the father of the respondent has affixed his signature as witness in the sale deed dated 12.01.1976 and the mortgage deed executed in favour of the petitioner dated 14.08.1974. Therefore, the learned counsel would submit that the father of the respondent was well aware that the petitioner was the sole owner of the properties. However, the respondent was making false propaganda that that the petitioner has put up bore well in a promaboke land.

5. Since the documents proving the ownership of the petitioner to the above said lands were not filed before the learned Magistrate, the learned Magistrate has passed the impugned order dismissing the complaint without going into the allegations made in the complaint, on the ground that there is no material to prove the ownership of the lands.

6. Not only that the petitioner has filed these documents before this Court to prove his ownership, but the allegations made by the petitioner are prima facie sufficient to take cognizance of the matter and deal in accordance with law. Therefore, I am of the view that the matter has to be remanded back to the learned Magistrate to pass orders after perusing the complaint and materials placed before him.

7. In the result, this Criminal Revision Case is allowed and the order dated 27.08.2008 passed in Cr.M.P.No.3196 of 2008 on the file of the learned District Munsif-cum-Judicial Magistrate, Illayangudi, Sivagangai District, is set aside and the matter is remitted back to the learned Magistrate to take cognizance and peruse the complaint and other documents and pass orders in accordance with law. petitioner shall file the material documents before the learned Magistrate in support of his contention. The learned Magistrate is directed to dispose of the case as expeditiously as possible.

Sd/-

Assistant Registrar(CO)

/True Copy/

Sub Assistant Registrar



To

1.The District Munsif-cum-
Judicial Magistrate, Illayangudi,
Sivagangai District

2.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

Copy to:

The Section Officer,
Criminal Section,
Madurai Bench of Madras High Court, Madurai

+1cc to Mr. P.Subbaraj advocate Sr.No.63857
+1cc to Mr. S.Pugalendhi Advocate Sr.No.63821
pm
AA/10.01.2014/3p-6c/

Cr1.R.C. (MD) No.648 of 2013
20.12.2013