

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.10.2015

Coram

THE HON'BLE MR. JUSTICE B. RAJENDRAN

Criminal Revision Case No. 419 of 2015

A.Sundar

.. Petitioner/Complainant

Vs.

1. D.Indrani

2. D.Jayavel

3. D.Gajapathy

... Respondents/Accused

Criminal Revision Case filed under Section 397 read with 401 of Cr.P.C. against the order dated 04.02.2015 made in Sl.No.3 of 2014 on the file of the Judicial Magistrate No.II, Chengalpattu, Kancheepuram District.

For Petitioner : Mr.R.M.Thandayuthapani

For Respondents 1&2 : Mr.K.V.Sridharan
for Mr.H.Mohammed Farook

ORDER

According to the petitioner/complainant, the respondents/accused Nos.1 to 3 trespassed into his property and attempted to assault him and threatened him with dire consequences. Pursuant to which, a compromise deed was entered into between the parties and in spite of the same, the accused Nos. 1 to 3 demanded additional consideration and started giving criminal threats to the complainant. The accused No.1 with a malafide intention cancelled the settlement deed on 03.10.2012. The accused Nos.1 and 2 under criminal conspiracy had illegally entered into an sale agreement vide Doc.No.11438 of 2013 on the file of the Sub-Registrar Office, Guduvancherry, dated 23.08.2013 and received a part consideration of Rs.3,00,000/- for the said 2.16 acres of land. Therefore, the complainant filed a private complaint under Section 200 Cr.P.C. The learned Judicial Magistrate No.II, Chengalpattu, Kancheepuram District, by order dated 04.02.2015, dismissed the private complaint. Aggrieved by the said order, the petitioner has filed this revision.

2. Today, when the Criminal Revision Case is taken up for hearing, the only ground raised by the learned counsel appearing for the petitioner is that the Lower Court has simply taking

into consideration that the matter pertains to civil dispute and also taking into consideration the pendency of Civil Suits, has dismissed the private complaint, by observing to get remedy from the Civil Court. He would further add that the Lower Court has not taken into consideration that the accused Nos.1 to 3 with a malafide intention cancelled the settlement deed dated 03.10.2012 and subsequently, accused Nos.1 and 2 had entered into a fresh sale agreement with one Kesavan on 23.08.2013 and has given a life threat to the petitioner.

3. Mr.K.V.Sridharan, learned counsel appearing for the respondents pointed out that in the complaint, no where it is stated, whether a police complaint has been given, prior to the filing of the private complaint. He would further add that the suit for declaration has been filed, when a suit for declaration of title in O.S.No. 355 of 2012, is pending. He would further contend that the title of property is the matter to be decided only by the Civil Court and the criminal case lodged is a false case. He would further bring to the notice of this Court that a complaint was given before the Superintendent of Police on 13.10.2012, but, the private complaint was given only in the year 2014. The Lower Court has detailedly considered all these aspects and passed the impugned order. As per the Judgment of the Hon'ble Apex Court reported in (2015 6 SCC 287), PRIYANKA SRIVASTAVA V. STATE OF UTTAR PRADESH, while preferring a private complaint, an affidavit should also be accompanied and the same has not been done at the time when the complaint was presented. If it is not accompanied by an affidavit, it should not be entertained and hence, he prayed for the dismissal of the revision.

4. Heard both sides. By consent, the main Criminal Revision Case itself is taken up for final disposal.

5. On a careful consideration of the entire papers as well as the orders of the Court below, one thing is clear, both parties agree that a Civil Suit for declaration of title has been filed in O.S.No. 355 of 2011 and the same is pending. The only contention now raised by the learned counsel for the petitioner is that the accused No.1 had earlier executed Settlement Deed and the same was cancelled, in turn, the accused Nos.1 and 2 had entered into an sale agreement with one Kesavan on 23.08.2013 and all these things are covered in the Civil Suit.

6. The next point raised by the learned counsel for the petitioner is with regard to the threat made to the petitioner/complainant by accused Nos.1 to 3. It is seen that the petitioner has made a complaint to the Superintendent of Police in the year 2012, but, he did not follow the same. Thereafter a private complaint was given in the year 2014. It is further seen that the petitioner has not chosen to file an

affidavit, while preferring a private complaint, as per the decision of the Hon'ble Apex Court cited supra and thus, the same should not be entertained. Even other wise, in respect of the above dispute, a Civil Suit for declaration of title has been filed in O.S.No. 355 of 2012 and the same is pending. Now, it is made clear that both parties will abide by the result of the Civil Suit. I find no reason to interfere with the reasoned order of the Lower Court, dated 04.02.2015. This Criminal Revision Case is dismissed.

Sd/-
Assistant Registrar(CS II)

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Sub Assistant Registrar

paa

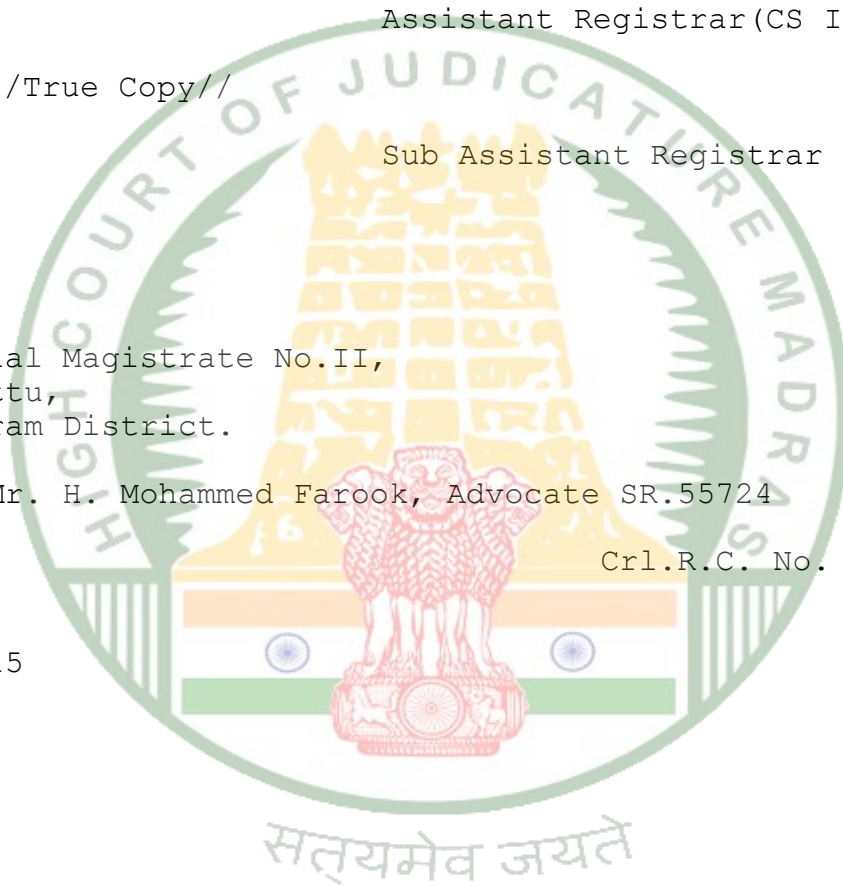
To

The Judicial Magistrate No.II,
Chengalpattu,
Kancheepuram District.

1 cc to Mr. H. Mohammed Farook, Advocate SR.55724

CrI.R.C. No. 419 of 2015

PUR(CO)
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