

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 09.10.2015

Coram

The Honourable Mr. Justice A.SELVAM

Crl. R.C.No.875 of 2015
& M.P.Nos.1 and 2 of 2015

A.Radhakrishnan

.. Petitioner

vs.

The Inspector of Police
Vigilance and Anti Corruption
Police Unit, Puducherry

.. Respondent

Revision under Sections 397 and 401 of Criminal Procedure Code to call for the records culminating in the order dated 10.7.2015 made in Crl.M.P.No.851/2015 in Special C.C.No.16 of 2015 on the file of Special Judge, Puducherry, examine the legality, correctness and propriety of findings made and to set aside the same and allow revision petition acquitting the petitioner/A.2.

For petitioner : Mr.V.Vibhishnan
For respondent : Mr.M.R.Thangavel,
Addl.Public Prosecutor (Puducherry)

O R D E R

This Criminal Revision Case has been directed against the order dated 10.7.2015 passed in Crl.M.P.No.851 of 2015 in Special C.C.No.16 of 2015 by the Special Judge, Puducherry.

2. The revision petitioner, as petitioner, has filed Criminal M.P.No.851 of 2015 under section 239 of Code of Criminal Procedure, 1973, praying to discharge him from the proceedings of Special C.C.No.16 of 2015 pending on the file of Special Judge at Puducherry.

3. It is averred in the petition that the petitioner has served as Sub Registrar during the relevant period. The document in question has been registered on 25.09.2008. Further, it is averred in the petition that no necessary entry has been made in the concerned register being maintained at the Sub Registrar office with regard to attachment alleged to have been made by the Chief Judicial Magistrate, Puducherry. Under the

said circumstances, the allegations levelled against the petitioner in the final report filed by the respondent are totally devoid of merits and therefore, present petition has been filed for getting the relief sought therein.

4. The court below, after considering the divergent contentions raised on either side, has dismissed the petition. Against the dismissal order, present Criminal Revision Case has been filed at the instance of the petitioner as revision petitioner.

5. The learned counsel appearing for the revision petitioner has repeatedly contended that the revision petitioner has been transferred to the concerned Sub Registrar office on 2.5.2008 and he served till 30.6.2009. The concerned document has been registered on 25.9.2008 and at the time of registering the document, factum of attachment has not been brought to the knowledge of the revision petitioner and therefore, revision petitioner has had no connection whatsoever with the offences mentioned in the final report and therefore, the petition has been filed, but the court below, without considering the role alleged to have been played by the revision petitioner, has erroneously dismissed the petition and therefore, the dismissal order passed by the court below is liable to be set aside and the revision case is liable to be allowed.

6. Per contra, the learned Additional Public Prosecutor, Puducherry has also equally contended that the concerned immovable property has been attached as per order dated 6.6.2005 by the Chief Judicial Magistrate, Puducherry and the factum of attachment has been intimated to all Government offices, including the concerned Sub Registrar Office and in fact, the same has been noted down in guideline register and by way of suppressing all those things, the revision petitioner has registered the document dated 25.09.2008 and since the revision petitioner has also involved in the alleged offences mentioned in the final report, the above petition has been dismissed by the court below and therefore, the dismissal order passed by the court below does not call for any interference.

7. On the side of the respondent, the attachment order alleged to have been passed by the Chief Judicial Magistrate, Pondicherry on 6.6.2005 has been submitted and this Court has perused the same and ultimately found that the order of attachment passed by the Chief Judicial Magistrate, Pondicherry is not in consonance with the provisions of Section 83 Clause 4 of Code of Criminal Procedure, 1973.

8. The main contention put forth on the side of the respondent is that during subsistence of attachment passed by the Chief Judicial Magistrate, the sale deed in question has been registered on 25.09.2008.

9. On the side of the revision petitioner, it has been contended that the factum of attachment has not been intimated to the concerned Sub Registrar office and even in the Encumbrance Certificate, the said

attachment has not been noted and therefore, the revision petitioner has simply done his official duty by way of registering the document dated 25.09.2008.

10. The court below has refused to accept the contentions put forth on the side of the revision petitioner. It has already been pointed out that no ground has been raised on the side of the revision petitioner with regard to validity of the attachment order dated 6.6.2005 and further the same has not been brought to the knowledge of the court below. Under the said circumstances and also in the interest of justice, this Court is of the view to set aside the impugned order passed in Crl.M.P.No.851 of 2015 with liberty to raise additional ground on the side of the revision petitioner and further the Court cannot act on the basis of an order, which is ab initio void.

In fine, this Criminal Revision Case is allowed and the impugned order passed in Crl.M.P.No.851 of 2015 in Special C.C.No.16 of 2015 by the Special Court, Puducherry is set aside and Crl.M.P.No.851 of 2015 is remitted to the file of Special Court, Puducherry. The revision petitioner/petitioner is at liberty to raise additional grounds with regard to validity of attachment. Both parties are entitled to file additional documents. The Special Judge, Puducherry is strictly directed to dispose of Crl.M.P.No.851 of 2015 on the ground of validity of the attachment order dated 6.6.2005 passed by the Chief Judicial Magistrate, Puducherry. The Special Judge, Puducherry is further directed to dispose of Crl.M.P.No.851 of 2015 before the end of December, 2015. Consequently, connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

ajr

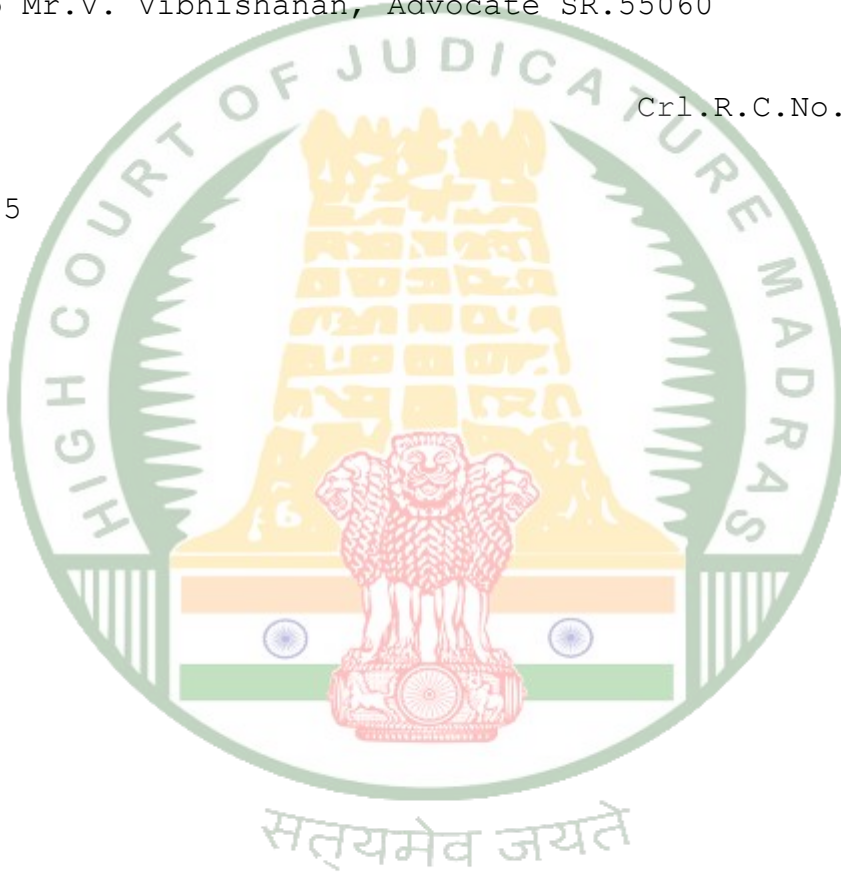
To

1. The Special Judge, Puducherry.
2. The Chief Judicial Magistrate Puducherry.
3. The Inspector of Police
Vigilance and Anti Corruption
Police Unit, Puducherry
4. The Public Prosecutor, High Court, Madras.

+ 1 cc to Government Pleader for Pondicherry Sr.55629
+ 3 ccs to Mr.V. Vibhishanan, Advocate SR.55060

Cr1.R.C.No.875 of 2015

KJI(CO)
EU 20.10.15



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