

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 25-8-2015

Pronounced on : 28-8-2015

CORAM:

THE HON'BLE MR. JUSTICE P.N.PRAKASH

Criminal Original Petition No.20906 of 2015

Seethalakshmi

.. Petitioner

Vs.

1. R. Dhakshinamoorthy
2. Sangamithra
3. P. Muthuvelraj
4. Ponnurangam
5. S.R.Madhana

.. Respondents

Criminal Original Petition filed under Section 483 of Code of Criminal Procedure with a prayer to call for the records in respect of the order dated 10.3.2015 made in CrI.R.P.No.8 of 2014 on the file of the Principal Sessions Judge at Thiruvallur, confirming the order dated 25.2.2014 made in unnumbered CC.No...../2014 on the file of Judicial Magistrate-II, Poonamallee, and set aside the same as illegal and consequently direct the Judicial Magistrate-II, Poonamallee to proceed with the complaint dated 24.6.2013 of the petitioner in accordance with law.

For Petitioner : Mr.K.N.Ruban
For Respondents : Mr.C.Emalias,
Addl.Public Prosecutor

O R D E R

This petitioner lodged a private complaint before the Judicial Magistrate No.II, Poonamallee, against the respondents herein alleging that the respondents had usurped her property. In support of the private complaint, petitioner enclosed 16 documents.

2. The learned Judicial Magistrate No.II, Poonamallee perused the private Complaint and dismissed the same in limine by a detailed order dated 25.2.2014, holding that the complaint does not disclose commission of a cognisable offence for the Court to take cognisance. Aggrieved by the said order, the petitioner approached the Sessions Court by invoking the revisional jurisdiction in Cr.R.P.No.8 of 2014. The learned Principal Sessions Judge by order dated 10.3.2015 dismissed Cr.R.P.No.8 of 2014, confirming the order passed by the

Judicial Magistrate No.II, Poonamallee, aggrieved by which the petitioner is before this Court, invoking the inherent jurisdiction under section 482 Cr.P.C.

3. The revisional jurisdiction of the Sessions Court is concurrent with that of this Court, and by virtue of Section 397(3) Cr.P.C., a second revision by a person, who had approached the Sessions Court, cannot be maintained before this Court. However, a petition under Section 482 Cr.P.C. is maintainable, if there has been a gross violation of law, resulting in grave injustice to the parties.

4. In this case, both the Courts below have appreciated the facts of the case and held that the complaint does not disclose commission of cognisable offence.

5. The learned Counsel appearing for the petitioner submitted that the Trial Court should have recorded the sworn statement of the petitioner and only thereafter it can dismiss the complaint. I am unable to persuade myself to agree with this proposition, because the question of recording the sworn statement will come only after cognisance of offence is taken under Section 190 Cr.P.C. (See: Hareram Satpathy and Others v. Tikaram Agarwala and Others, 1978 SCC (Crl) 496).

6. In this case, both the Courts have held that there are no materials for taking cognisance of the offence, and on that score the complaint has been dismissed, which cannot be said to be illegal.

7. During the course of arguments, it came to the notice of this Court that this petitioner herself is an accused in Cr.No.1910 of 2014 pending on the file of the Inspector of Police, T-4, Maduravoil Police Station, in respect of the transactions referred to in her complaint, and that, this Court has dismissed her anticipatory bail applications twice as it is alleged that she had fabricated her grandfather's will. Of course, this petitioner has not disclosed about this fact in her private complaint.

8. Be that as it may, in the considered opinion of this Court, the Courts below have not committed any error in dismissing the private complaint lodged by the petitioner, warranting interference by this Court under Section 482 Cr.P.C.

9. In the result, this Criminal Original Petition is devoid of merits and the same stands dismissed.

Sd/-

Assistant Registrar

True Copy

Sub Assistant Registrar

vr

To

1. The Judicial Magistrate No.II, Poonamallee
2. The Principal District Judge, Thiruvallur.
3. The Public Prosecutor, High Court, Madras.

2 cc to Mr.K.N.Ruban , Advocate Sr.No.46013

Crl.O.P.No.20906 of 2015

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pmk.14.9.2015



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