



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 09.04.2015

CORAM:

THE HONOURABLE MR. JUSTICE S. NAGAMUTHU

CRL.RC. (MD) No.143 of 2014

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T.B.Murugan : Petitioner/Petitioner

Vs.

1.Annama Raja
2.C.Ravi : Respondents/Respondents

PRAYER: Petition is filed under Section 397 r/w 401 of the Code of Criminal Procedure, to call for the records and set aside the order passed by the Court of the Judicial Magistrate, Rajapalayam, in Crl.M.P.No.41 of 2014, dated 04.01.2014 and allow this Criminal Revision Petition.

For Petitioner : Mr.M.Jothi Basu

For Respondent No.1 : Mr.T.S.R.Venkataramana

For Respondent No.2 : No Appearance

O R D E R

The petitioner herein made a private complaint before the learned Judicial Magistrate, Rajapalayam, against the respondents herein, alleging that they had committed offence of forgery. He requested the learned Judicial Magistrate to forward the complaint under Section 156(3) of the Code of Criminal Procedure to the police for investigation. The learned Judicial Magistrate, by order dated 04.01.2014, dismissed the petition in Crl.M.P.No.41 of 2014. Challenging the said order, he has come up with the present Criminal Revision Case.

2. I have heard the learned counsel appearing for the petitioner, the learned counsel appearing for the first respondent and perused the records carefully.

3. A perusal of the complaint made by the petitioner would go to show that according to him, the petitioner and the first respondent had a common ancestor, by name, Annamaraja, who had three sons, by names, Krishnama Raja, Chellakuppam Raja and ~~Seivessoular Raja~~ Raja. The first respondent herein is the son of the said Krishnama Raja. According to the petitioner, there was no partition of the joint family properties. But, by using the

partition deed dated 09.11.1981, the first respondent had got the patta transferred in his name and sold away the properties in question to the second respondent herein.

4. The petitioner further alleged that he was not aware of the partition deed of the year 1981 and he came to know about the same only in the year 2013 and immediately, he made such complaint. The learned Judicial Magistrate has dismissed the said petition stating that the dispute is purely civil in nature.

5. In this revision, the learned counsel for the petitioner would submit that the learned Judicial Magistrate has got two options, while dealing with the private complaint, namely, either he has to forward the complaint under Section 156(3) of the Code of Criminal Procedure or to take cognizance of the complaint. Here, in this case, without adhering to any one the said options, the learned Judicial Magistrate has dismissed the said petition, which is illegal, it is contended.

6. In my considered view, this argument of the learned counsel for the petitioner deserves a simple rejection, for the simple reason that the learned Judicial Magistrate is not legally obliged either to forward the complaint under Section 156(3) of the Code of Criminal Procedure or to take cognizance of the complaint. Either to forward the complaint under Section 156(3) of the Code of Criminal Procedure or to take cognizance of the complaint, the pre-requisite condition is that the allegations in the complaint should make out certain offences, upon which cognizance can be taken or the same may require investigation. When the learned Judicial Magistrate finds that the allegations do not make out any offence at all, it is not at all possible for him either to forward the complaint under Section 156(3) of the Code of Criminal Procedure to the police for investigation or to take cognizance of the complaint. In this case, the learned Judicial Magistrate found that the dispute is purely civil in nature and the same does not make out any offence. Therefore, the learned Judicial Magistrate was right in dismissing the petition.

7. But, the learned counsel for the petitioner would submit that the petitioner was not aware of the partition deed, which was registered in the year 1981 and it is a forged one. It is highly unbelievable that the petitioner was not aware of the registration of the document for about 32 years. At any rate, at this length of time, the question of investigating these allegations is not at all possible. I hold that the learned Judicial Magistrate was right in dismissing the petition, since the dispute is purely civil in nature. I also hold that the private complaint filed before the Lower Court and the present Criminal Revision Case filed before this Court amount to clear abuse of process of law, for which while dismissing the Criminal Revision Case, I need to impose heavy cost upon the petitioner. However, considering the fervent request made by the learned



counsel for the petitioner, I refrain from imposing any cost upon the petitioner.

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/True Copy/

Sd/-

Assistant Registrar(AE)

sub-Assistant Registrar

To

- 1.The Judicial Magistrate, Rajapalayam.
 - 2.Do through the Chief Judicial Magistrate,
Virudhunagar District at Srivilliputhur
- +One cc to Mr.G.Marimuthu, Advocate, SR.No.18111
+One cc to Mr.T.S.R.Venkat Ramana , Advocate, SR.No.17970

NB

RL/ 5c- 21/4/2015

ORDER MADE IN
CRL.RC.(MD)No.143 of 2014

DATED - 09.04.2015