



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 05.01.2015

CORAM:

THE HONOURABLE MR. JUSTICE M. SATHYANARAYANAN

Crl.R.C(MD)No.454 of 2014

... Petitioner

Sethu

Vs

... Respondents

Sundararaj Ambalam

Prayer: Civil Revision Case filed under Section 397 read with 401 of the Code of Criminal Procedure, praying to admit the revision petition and to call for the records in Cr.M.PNo.7832 of 2014, dated 16.07.2014 on the file of the learned Judicial Magistrate No.6, Madurai and duly set aside the order of the court below as regards to the dismissal of the discharge petition and consequently discharge the revision petitioner.

For Petitioner : Mr.J.Jeyakumaran

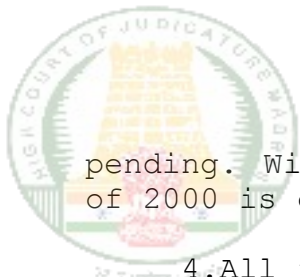
For Respondent : Mr.N.Juliet Latha

ORDER

This revision has been filed to set aside the order made in Cr.M.P.No.7832 of 2014, dated 16.07.2014 on the file of the learned Judicial Magistrate No.6, Madurai and consequently, discharge the revision petitioner.

2. The respondent herein lodged a private complaint in C.C.No.714 of 2004 against the petitioner herein and two others for the alleged commission of offences under Sections 120(b), 324, 380, 402, 406, 420 and 461 of IPC. A perusal of the private complaint filed by the respondent would disclose that the petitioner is the owner of certain extent of land in S.No.266/1K, 266/2E in Sambakulam Village and he want to dispose of the land and for that purpose, he utilized the service of the petitioner herein /A1, who happened to be his uncle's son. According to the defacto complainant, all the accused connived and colluded and tried to grab the land in a clandestine manner and this regard, the respondent herein has lodged a complaint against all the accused on the file of Thirunagar Police Station and enraged by the same, the accused said to have trespassed into the lands of the respondent herein and damaged the motor pump set and also stolen 5 H.P. Motor pump set and the petitioner / A1 herein had also attacked the respondent / private complainant.

3. It is further alleged in the private complaint that all the accused had conspired with each other and with a view of grab the land in an unlawful manner, they have fictitiously created the Sale Deed, dated 6.3.2000, in favour of the petitioner / A1 and once again the respondent has lodged a complaint on the file of Thirunagar Police Station. Based on which, a case in Crime No.207 of 2000 was registered for the alleged commission of offences under Sections 406, 420, 461 and 380 of IPC and A1 and A3 in the said crime number were arrested and enlarged on bail. The respondent / private complainant further alleged that two civil suits in O.S.No.172/2000 and O.S.No.541/2000 are also



pending. Without conducting a proper enquiry, the case in Crime No.207 of 2000 is closed and therefore, he lodged a private complaint.

4.All the accused in the private complaint has filed a petition for discharge by invoking Section 245 of Cr.P.C., by filing a petition in Cr.M.P.No.7832/2004, Cr.M.P.No.5450/2005 and 228/2010 in C.C.No.714 of 2004. The Court of Judicial Magistrate No.6, Madurai, on going through the contents of the private complaint and the sworn statement has found that absolutely no allegation has been levelled against A3 and therefore allowed the petition for discharge and discharged him and in so far as the other accused are concerned it found that the points urged in the petition for discharge require trial and therefore, dismissed the petition filed by A1 and A2 by a common order dated 16.07.2014 and aggrieved by the same, A1 has filed the present revision petition.

5.The learned counsel for the petitioner would vehemently contend that assuming without admitting the averments made in the private complaint are true, it only disclose the civil nature of the dispute and even as per the own admission of the respondent / private complainant, two suits are pending in O.S.Nos.172/2000 and 541/2000 and only with an oblique motive and to harass this petitioner / A1, the above said private complaint has been lodged and it is nothing but abuse of process of Court and therefore, prayed for allowing the revision.

6.Per contra, the learned counsel for the respondent / private complainant invited the attention of this Court to the contents of the private complaint as well as the sworn statement and would contend that in more than one place specific allegations are levelled against this petitioner and A2 with regard to criminal trespass, cheating and allied offences and therefore, the points urged by the learned counsel appearing for the petitioner can be thrashed out only during the course of trial and taking into consideration of the said fact, the trial Court has rightly dismissed the petition for discharge, filed by for A1 and A2.

7. This Court, after carefully considering the rival submission and upon perusal of the contents of the private complaint and other materials placed before it, is of the considered view that the revision is to be dismissed for the following reasons:-

A perusal of the private complaint as well as the sworn statement and as rightly contended by the learned counsel for the respondent would disclose that there are specific allegations levelled against this petitioner and A2 with regard to the commission of offence of criminal trespass, cheating and allied offences. Though it is vehemently contended by the learned counsel appearing for the petitioner that the matter, which is purely civil in nature, by giving the colour of criminality by abusing the process of this Court, this Court is unable to accept the said submission for the reason that the points urged in this regard can be agitated only during the course of trial and the trial Court has also also rightly recorded the said reason and dismissed the petition filed for discharge. This Court on an independent application of mind, is of the considered view that there is no error or infirmity in the reasons assigned by the learned Judge in dismissing the petition for discharge filed by the Petitioner /A1.



8. In the result, the Criminal Revision Petition is dismissed. It is made clear that the findings or observation made herein is only for the purpose of disposal of this revision and the trial Court need not be influenced by the observation and it has to adjudicate the private complaint based on the quality materials placed before it.

Sd/-

Assistant Registrar(Per Admn.)

/TRUE COPY/

Sub Assistant Registrar

To

The Judicial Magistrate No.6,
Madurai.

+1cc to M/s.N.Juliet Latha,Advocate, SR.No.815

+1cc to Mr.J.Jeya Kumaran, Advocate, SR.No.23

Cr1.R.C (MD) No.454 of 2014
05.01.2015

MPK

PA/18.02.15/3P/4C