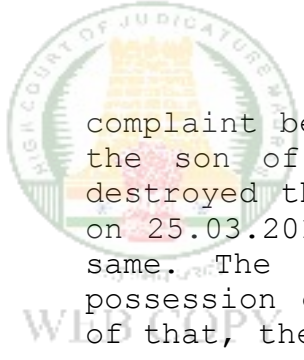




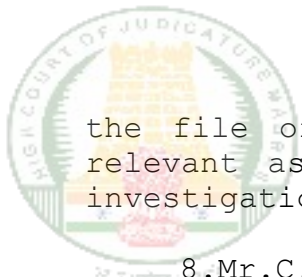
complaint before Avaniyapuram Police Station. Subsequently, on 19.01.2013 the son of the revision petitioner/accused had attacked him and also destroyed the thatched shed and in this regard, he has given a complaint on 25.03.2013 with jurisdictional police and they refused to receive the same. The petitioner has enclosed the revenue record that he is in possession of the property and lodged the said complaint. On the basis of that, the above said FIR came to be registered.

4. One R.Arulrani, jurisdictional Village Administrative Officer has also lodged another complaint on the very same police station against the first respondent herein in Crime No. 981 of 2013 for the alleged commission of offences under Sections 468, 471 and 420 IPC alleging that the certificate has been fabricated by the first respondent/accused as if the first respondent is in possession of Anupanadi Village in Nanja Survey Nos.31/8, in 31/4 and according to her, she has not given any such certificate and entire document has been fabricated. Investigation is also pending.

5. In respect of FIR in Crime No.448 of 2013, the third respondent after conducting investigation has filed a final report on 20.05.2014 closing the case as 'mistake of fact' and the petitioner filed CrI.M.P.No.4431 of 2014. The said application has been filed under Section 173(8) Cr.P.C and the court of Judicial Magistrate NO.6, Madurai has passed an interim order on 04.09.2014 directing the third respondent to conduct further investigation. The third respondent after conducting further investigation, has once again referred the case as 'mistake of fact'. The said Criminal Miscellaneous Petition was taken up for final disposal and the above said court has once again ordered further investigation and challenging the virus of the order, the accused in CrI.M.P.No.4431 of 2014 has filed this revision.

6. The learned counsel for the petitioner submits that the petitioner is not at all in possession of the property in question and the same is evidenced by FIR in Crime No.981 of 2013 originally registered by Vadipatti Police Station which was transferred to the file of the Avaniyapuram Police Station in Crime No.981 of 2013 wherein a specific allegation has been made that the certificate/document under which the first respondent claimed his possession is fabricated. Therefore, he would contend that on a particular day, the petitioner along with 3 persons had trespassed into the land and destroyed the land as well as the fence is nothing but falsehood. It is categorical submission of the learned counsel appearing for the revision petitioner that only with the help of the fabricated documents, the petitioner claimed that he is in possession of the same and it is vitiated in the form of case in Crime No.981 of 2013 registered by the jurisdictional Village Administrative Officer. Though further investigation was ordered and it was referred as mistake of fact, the trial court has committed grave error in once again ordering further investigation without recording any reason and hence on the sole ground, the impugned order warrants interference.

7. Per contra, Mr.S.Balaji, learned counsel for the first respondent would contend that in respect of the property in question, he has also invoked the jurisdiction of the civil court and jurisdictional Village Administrative Officer, colluding with the revision petitioner, who is a practising advocate, lodged a false complaint in Crime No. 981 of 2013 on



the file of the third respondent and taken into consideration of the relevant aspects only, the trial court has once again ordered further investigation and hence, prays for dismissal of this revision.

8. Mr. C. Ramesh, learned Additional Public Prosecutor appearing for the respondents 2 and 3 would contend that in the case on hand further investigation was conducted twice and on both occasions, the third respondent found no tenable or sufficient material to lay charge sheet against the revision petitioner/accused and accordingly filed the closure report.

9. This Court has carefully considered the rival submissions and also perused the materials available on record.

10. It is settled position of law that there is no specific embargo on the power to Magistrate to order further investigation under Section 173(8) Cr.P.C and the satisfaction of the Magistrate is a condition precedent of commencement of further proceedings and the discretion to order further investigation will depend upon facts of a given case. In the case on hand, a perusal of reports of the third respondent on further investigation would disclose that after examination of witnesses and collection of documents the third respondent has reached the conclusion that the matter is to be referred as 'mistake of fact'. The third respondent has also placed reliance upon FIR registered on the basis of the complaint given by the jurisdictional Village Administrative Officer in Crime No. 981 of 2013 on his own file wherein a specific allegation has been levelled against the first respondent that he has fabricated the document/certificate evidencing as if he is in possession of the properties in question and according to the Village Administrative Officer, she has not given any such certificate.

11. The impugned order directing further investigation is bereft of any reasons and as already pointed out it is the second of such order which directed the third respondent to conduct further investigation. The third respondent, on both occasions after conducting further investigation, has referred the case as 'mistake of fact' and the jurisdictional court cannot go on directing the third respondent to conduct further investigation repeatedly on the same materials collected during investigation. The impugned order passed by the trial court is bereft of any reasons and the third respondent, in the considered opinion of the Court, has rightly closed the case as 'mistake of fact'.

12. In the result, this Criminal Revision Petition is allowed and the impugned order dated 26.11.2014 on the file of the Court of Judicial Magistrate No.VI, Madurai, is set aside. However, it is made clear that it is always open to the first respondent to work out his remedy in accordance with law in pending civil proceeding. Consequently, connected M.P.(MD) No. 1 of 2014 is closed.

Sd/-

Assistant Registrar(Writ)

/True copy/



1.The Judicial Magistrate No.VI, Madurai.

2. Do through The Chief Judicial Magistrate, Madurai.

3.The Superintendent of Police, Madurai District, Madurai.

4.The Inspector of Police,
D3, Avaniyapuram Police Station,
Madurai District.

5.The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

+1cc to Mr.R.Murugan,Advocate in Sr NO.15254

+1cc to Mr.S.Balaji,Advocate in Sr No.15381

COPY TO:

THE SECTION OFFICER,
CRIMINAL RECORDS,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

Criminal Revision case No. 511 of 2014
and M.P.(MD) NO. 1 of 2014
27.03.2015

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