

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 7.09.2016

CORAM

THE HONOURABLE MR.JUSTICE G.CHOCKALINGAM

CRIMINAL REVISION CASE No.302 of 2016

and

C.M.P.No.2003 of 2016

1.M.Muthukumar

2.P.Natarajan

... Petitioners/Accused

vs.

1.The State of Tamil Nadu,
Rep. By the Inspector of Police,
CBCID,
Coimbatore.

2.Rukmani

(The 2nd respondent is
impleaded as per the order
of this Court dated 8.3.2016
made in Crl.M.P.No.2615/2016
in Crl.R.C.No.302/2016.

.. Respondents/Complainants

Criminal Revision Case filed under Sections 397 and 401 of Code of Criminal Procedure praying to set aside the order dated 27.10.2015 passed in C.M.P.No.967 of 2015 in R.C.S.No.1 of 2015 on the file of the Chief Judicial Magistrate, Tiruppur.

For Petitioners ... Mr.S.Sithirai Anandam

For 1st Respondent ... Ms.M.F.Shabana,
Govt. Advocate (Crl. Side)

For 2nd Respondent ... Mr.P.M.Duraiswamy

O R D E R

This Criminal Revision Case is directed against the order dated 27.10.2015 passed in C.M.P.No.967 of 2015 in R.C.S.No.1 of 2015 on the file of the learned Chief Judicial Magistrate, Tiruppur.

2.The respondent/complainant filed a case in R.C.S.No.1 of

2015 on the file of the learned Chief Judicial Magistrate, Tiruppur as against the petitioners for the offence under Sections 467, 468, 471, 294(b) and 506(i). Pending the said case, the petitioners/accused filed a petition in C.M.P.No.967 of 2015 claiming interim custody of the original sale deed, vide Doc.No.730/2006 and the same was dismissed by the learned Judge by order dated 27.10.2015. Aggrieved over the said order of dismissal, the present criminal revision petition has been filed.

3.The learned counsel for the petitioners mainly contended that during the investigation of the case, the respondent police claimed original document from the petitioners. In order to co-operate with the investigation, the petitioners produced the original sale deed pertaining to the Document No.730 of 2006. The said document is a parent document, which is a sale deed and therefore, the question of tampering or making additional entries in the document would not arise. If the document is misplaced or damaged, the petitioners will be put to irreparable loss and hardships.

4.The learned counsel further contended that the learned Judge failed to see that the petitioners are the owners of the Document No.730 of 2006 and they are entitled to receive the same as per the settled principles of law. But, the learned Judge without applying his mind, erroneously, dismissed the petition. Hence, the impugned order is liable to be set aside and the revision has to be allowed.

5.The learned Government Advocate (Crl.side) for the first respondent submitted that the Document No.730 of 2006 is an essential document to the case and moreover, in the complaint given by the defacto complainant, it is stated that the said document has been registered by using the forged documents. Hence, the learned Judge, considering the facts and circumstances of the case, rightly dismissed the petition. Therefore, there is no illegality or infirmity in the order of the trial Court. Hence, the revision petition has to be dismissed.

6.Heard the learned counsel for the petitioners, the learned Government Advocate (Crl.Side) and the learned counsel for the second respondent. This Court perused the order of the trial Court and the materials available on record.

7.In this case, the learned trial Judge, specifically found that the case has been referred as mistake of fact and rightly dismissed the petition as the first respondent objected to return the interim custody of the document by stating that it is an important document and the enquiry is pending in the trial Court.

8.Since the enquiry is pending before the trial Court and the matter has not been finally disposed, it is not proper to return the said document to the petitioners herein. Therefore, this Court finds that there is no illegality or infirmity in the impugned order passed by the learned trial Judge. Hence, the revision petition is liable to be dismissed. However, the petitioners are hereby directed to approach the trial Court for final disposal of the case filed in R.C.S.No.1 of 2015 on the file of the Chief Judicial Magistrate, Tiruppur.

9.Accordingly, the criminal revision petition is dismissed with liberty to approach the trial Court for return of document, after final disposal of R.C.S.No.1 of 2015 on the file of the learned Chief Judicial Magistrate, Tiruppur. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

To

1. The Chief Judicial Magistrate,
Tiruppur.

2. The Public Prosecutor,
High Court, Madras.

1 cc to Mr.P.M.Duraiswamy, Advocate, sr.50658

1 cc to Mr.S.Sithirai Anandam, Advocate, sr.50669

Cr1.R.C.No.302 of 2016

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kra 28.09.2016

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