

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 07.10.2016

Coram

THE HONOURABLE MR. JUSTICE G.CHOCKALINGAM

Cr1.R.C.No.514 of 2016

Pradabachandiran

.. Petitioner

Vs.

1. Vasudevan
2. Balachandiran
3. Bharathidasan
4. Prabakaran

.. Respondents

Prayer :- Criminal Revision Petition filed under Section 397 r/w 401 of Cr.P.C. to set aside the order dated 02.02.2016 made in Cr.MP.No.342 of 2016 on the file of the Judicial Magistrate No.III, Puducherry.

For Petitioner : Mr.Prakash Adipadam

ORDER

The criminal revision petition is directed against the order passed by the learned Judicial Magistrate No.III, Puducherry made in Cr.MP.No.342 of 2016 dated 02.02.2016, for dismissing the petition filed by the petitioner under Section 156(3) Cr.PC.

2.The learned counsel for the petitioner would mainly contended that the revision petitioner preferred petition before the Judicial Magistrate No.III, Puducherry under Section 156(3) Cr.PC to register a FIR on the basis of the complaint given by him. The learned counsel would contend that the trial Court erroneously dismissed the application as there is civil dispute between the parties and mere wrong entry in the ration card cannot be sighted as a ground to reject the petitioner's complaint. While deciding the irrelevant factors the petition filed under Section 156 of Cr.PC and absolutely without any discussion about allegation made in the petitioner's complaint dismissed the direction petition. The trial Court without considering the above facts dismissed the petition filed by the petitioner and the learned counsel prays to set aside the order of trial Court and to allow the criminal revision filed by the revision petitioner.

3.Heard the learned counsel for the petitioner and perused the available records.

4. On reading of the complaint reveals that the main allegation is civil dispute between the parties, the complainant admitted that there are documents executed in favour of A2 to A4. The main contention is that without obtaining legal heir certificate the accused executed release deed. Hence, the case has to be registered against the present respondents.

5. It is worthwhile to mention the decision of the Hon'ble Apex Court reported in Lalitha Kumari V. Government of Uttar Pradesh and others - (2014) 2 SCC 1 which held as follows :-

Conclusion/Directions:

120) In view of the aforesaid discussion, we hold:

120.1) Registration of FIR is mandatory under Section 154 of the Code, if the information discloses commission of a cognizable offence and no preliminary inquiry is permissible in such a situation.

120.2) If the information received does not disclose a cognizable offence but indicates the necessity for an inquiry, a preliminary inquiry may be conducted only to ascertain whether cognizable offence is disclosed or not.

120.3) If the inquiry discloses the commission of a cognizable offence, the FIR must be registered. In cases where preliminary inquiry ends in closing the complaint, a copy of the entry of such closure must be supplied to the first informant forthwith and not later than one week. It must disclose reasons in brief for closing the complaint and not proceeding further.

120.4) The police officer cannot avoid his duty of registering offence if cognizable offence is disclosed. Action must be taken against erring officers who do not register the FIR if information received by him discloses a cognizable offence.

120.5) The scope of preliminary inquiry is not to verify the veracity or otherwise of the information received but only to ascertain whether the information reveals any cognizable offence.

120.6) As to what type and in which cases preliminary inquiry is to be conducted will depend on the facts and circumstances of each case. The category of cases in which preliminary inquiry may be made are as under:

- a) Matrimonial disputes/ family disputes
- b) Commercial offences
- c) Medical negligence cases
- d) Corruption cases
- e) Cases where there is abnormal delay/laches in initiating criminal prosecution, for example,

over 3 months delay in reporting the matter without satisfactorily explaining the reasons for delay. The aforesaid are only illustrations and not exhaustive of all conditions which may warrant preliminary inquiry.

120.7) While ensuring and protecting the rights of the accused and the complainant, a preliminary inquiry should be made time bound and in any case it should not exceed 7 days. The fact of such delay and the causes of it must be reflected in the General Diary entry.

120.8) Since the General Diary/Station Diary/Daily Diary is the record of all information received in a police station, we direct that all information relating to cognizable offences, whether resulting in registration of FIR or leading to an inquiry, must be mandatorily and meticulously reflected in the said Diary and the decision to conduct a preliminary inquiry must also be reflected, as mentioned above.

121) With the above directions, we dispose of the reference made to us. List all the matters before the appropriate Bench for disposal on merits.

6. On reading of the above provision before registering the FIR, the Station House Officer has to preliminarily enquire about whether the matter involved is civil dispute or not, as stated above. In this case, the trial Court is of the view, even though the petitioner filed petition under Section 156(3) Cr.PC, the petitioner prayed direction to register the FIR against the accused/respondents. If the blanket direction is given by the trial Court, the Station House Officer under the obligation to register the case without analysing the affidavit stated in the complaint, whether the preliminary enquiry is necessary or not. If the petitioner wants to register the FIR, the Court before passing such a direction has to be very much careful in analysing the complaint, as per the principles levelled in the above said case and whether the registration of FIR is immediately necessary or not or any preliminary enquiry is necessary etc., has to be gone into by the trial Court.

7. In the present case in hand, the trial Court after analysing the evidences comes to a correct conclusion that there is civil dispute between the parties, hence, this Court feels no such direction is necessary in the complaint. This Court finds there is no illegality or infirmity in the order of the trial Court and the same does not warrant any interference by this Court.

8.In the result, the criminal revision petition stands dismissed, with liberty to the revision petitioner to file private complaint under Section 200 Cr.PC before the competent Court in the manner known to law, for appropriate relief.

Sd/-
Asst.Registrar (J)

/true copy/

Sub Asst. Registrar

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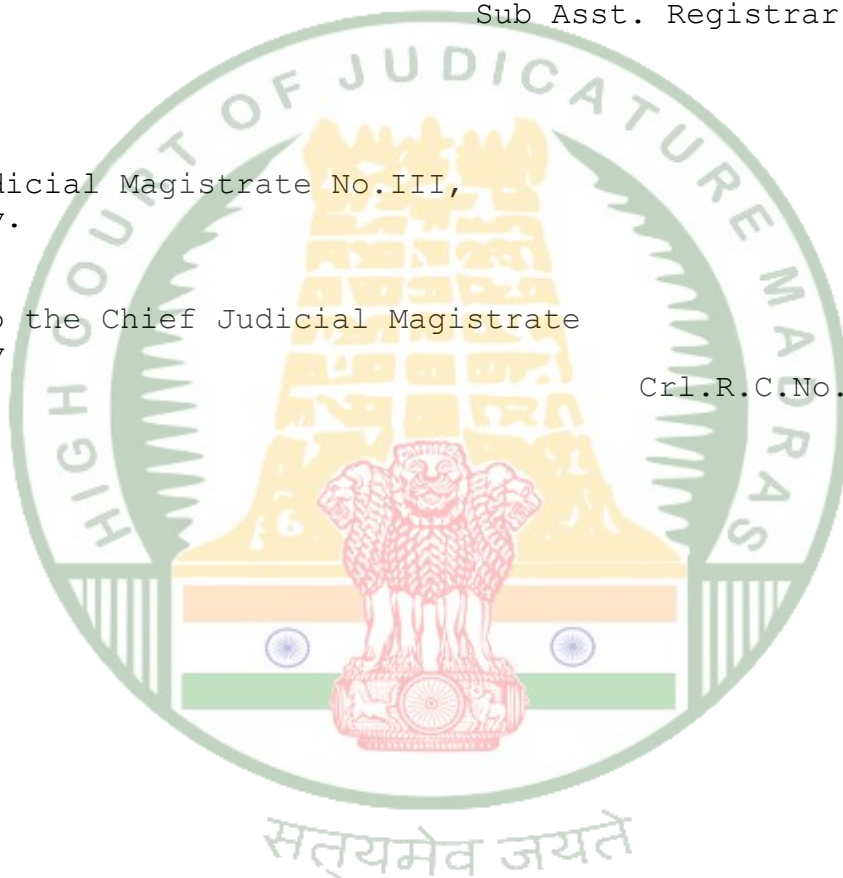
To

1. The Judicial Magistrate No.III,
Puducherry.

2. do thro the Chief Judicial Magistrate
Puducherry

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