

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.02.2017

CORAM:

THE HON'BLE MR.JUSTICE C.T. SELVAM

Crl.R.C.No.160 of 2017

H.Ghayazuyiah

S/o.Late Mohammed Habibullah

.. Petitioner/Complainant

vs.

State represented by

The Inspector of Police,

Central Crime Branch,

Anti Land Grabbing Special Cell,

Team II, Chennai - 600 007.

.. Respondent/Respondent

Criminal Revision Case filed under Section 397 and 401 Cr.P.C. against the order of learned Judicial Magistrate, Alandur, Chennai, passed in Crl.M.P.No.1581 of 2016 on 06.01.2017.

For Petitioner : Mr.S.Madhusudanan

For Respondent : Mr.M.Mohammed Riyaz

Government Advocate [Crl.side]

O R D E R

This revision arises against the order of learned Judicial Magistrate, Alandur, Chennai, passed in Crl.M.P.No.1581 of 2016 on 06.01.2017.

2. Petitioner, through his Power Agent, preferred a complaint against one Sabbuddin before the respondent police. A case was registered in Crime No.35 of 2014 for offences u/s.448, 417, 420, 467 and 471 IPC and upon completion of investigation, a report has been filed informing the dispute to be one of civil nature and of the same being a mistake of fact. There against, petitioner has preferred a protest petition in Crl.M.P.No.1581 of 2016 on the file of learned Judicial Magistrate, Alandur, Chennai, which has been dismissed under the impugned order, giving rise to this revision.

3. Heard learned counsel for petitioner and learned Government Advocate [Crl.side].

4. In dismissing the protest petition, Court below has found that investigation revealed that the property belongs to Jumma Mosque as per the document registered in the year 1905. The revenue records, Wakf Board records and civil suits filed seeking eviction of tenants, clearly establish that the property belongs to Jumma Mosque. Petitioner claims possession based on a settlement deed registered as document No.806 of 2010 dated 25.04.2010 said to have been executed in their favour. It was admitted by both parties that the father of complainant had functioned as Muthavalli in the Wakf Board and had been removed from such post in the year 1991. No case has been filed by the father of complainants claiming possession of property. After his demise, complainants contend that the document No.374 of 1905 is a fraudulent document based on which the Jumma Mosque is trying to take over possession of the property. The said contention was rejected by Court below on the reasoning that the document was registered in the year 1905 and that after 100 years of registration, it is now contended that it is a fraudulent document. Court below found the complaint to be a counter blast since a case against petitioner party has been registered in Crime No.34 of 2014 and the same is pending investigation. Court below rightly has observed that the matter is purely a civil dispute and the parties would have to seek their remedy through civil process and that there is no error in the final report informing the case to be a 'mistake of fact'

5. Learned counsel for petitioner contended that in passing the order under challenge, Court below has informed the order of this Court in Crl.O.P.No.13989 of 2015 as one directing the filing of a charge sheet. The order of this Court was not to such effect. It was one permitting the petitioner to prefer a protest petition. Learned counsel also contended that the case cited against the petitioner party was registered much after the preference of complaint by this petitioner. Petitioner's complaint was dated 19.02.2013 and was registered only on 15.02.2014. In the interregnum, respondent received a complaint against the petitioner which was registered in Crime No.34 of 2014 against the petitioner party.

6. Respondent, upon receipt of a complaint of the Walk Authority, registered a case. The submissions of learned counsel for petitioner are not seen to be of much consequence. Crl.O.P.No.13989 of 2015 was a petition seeking a direction for completion of investigation and filing of charge sheet. On the hearing date, it was found that charge sheet had been filed. Hence, this Court had given liberty to petitioner to move a protest petition. Given the reasoning of the Court below herein above reproduced and finding that the matter essentially is civil in nature, this Court would dismiss this revision.

In the result, the Criminal Revision Case is dismissed.

s/d-
Assistant Registrar (CS-VI)

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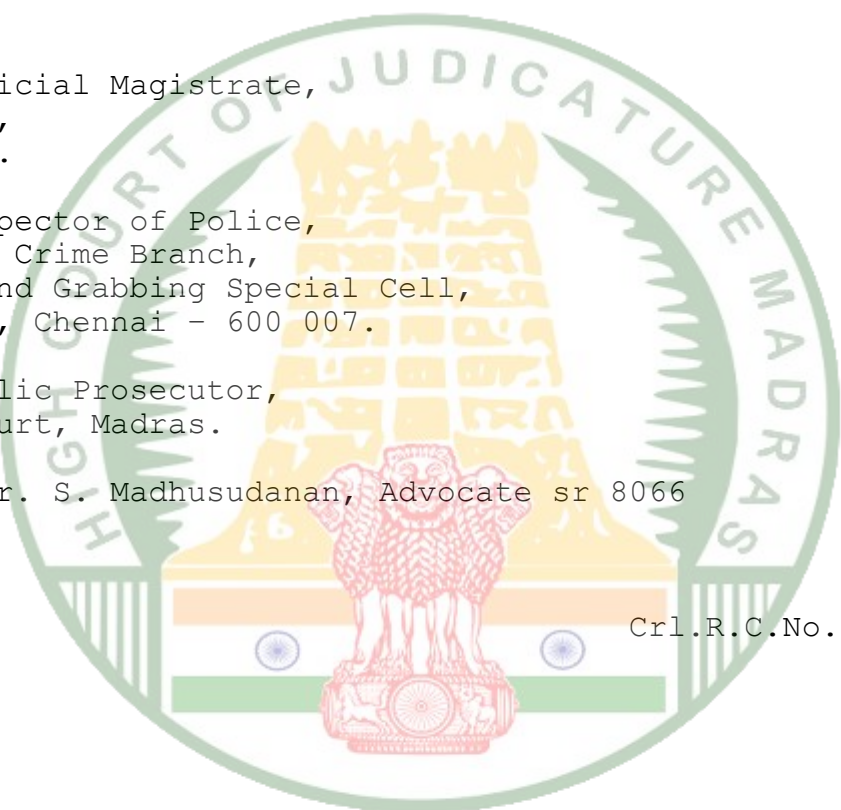
Sub-Assistant Registrar

To

1. The Judicial Magistrate,
Alandur,
Chennai.
 2. The Inspector of Police,
Central Crime Branch,
Anti Land Grabbing Special Cell,
Team II, Chennai - 600 007.
 3. The Public Prosecutor,
High Court, Madras.
- +1 CC to Mr. S. Madhusudanan, Advocate sr 8066

Crl.R.C.No.160 of 2017

KK (CO)
sp/2/3

The seal of the High Court of Madras is a circular emblem. It features a central yellow temple gopuram (tower) with a red lion capital on top. Below the gopuram is a red elephant capital. The entire emblem is set against a background of green and white horizontal stripes. The words "HIGH COURT OF JUDICATURE MADRAS" are written in a green circle around the emblem. Below the emblem, the Sanskrit motto "सत्यमेव जयते" (Satyameva Jayate) is written in Devanagari script.

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