



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 28.07.2017

CORAM

THE HON'BLE MR.JUSTICE V.BHARATHIDASAN

Cr1.R.C(MD) .No.233 of 2011

WEB COPY

T.N.Sivasubramanian

... Petitioner/Petitioner/
Defacto complainant

-Vs-

1.The State, represented by
The Deputy Superintendent of Police,
District Crime Branch,
Karur District,
P.S.Crime No.31 of 2008
(Under Section 464 r/w.465, 471 r/w.468 of IPC)

... Respondent/Respondent
Complainant

2.T.N.Sivadevan

3.T.S.Vishnu

4.V.A.Palanisamy

5.M.Subramanian

6.T.Periyasamy

...Respondents/Respondents/
Accused

Prayer : Criminal Revision Case filed under Section 397 r/w 401 of the Code of Criminal Procedure, praying this Court to call for the records pertaining to the order passed by the learned Judicial Magistrate No.II, Karur Dated 25.1.2011 in Cr1.M.P.No.261 of 2011 in Crime No.31 of 2008, examine them and set aside the same and consequently direct the first respondent to further investigate the case in Crime No.31 of 2008.

For Petitioner : Mr.R.Diwakaran
for M/s.D.Geetha

For Respondent-1 : Mr.C.Mayilvahana Rajendran
Additional Public Prosecutor (Cr1. Side)

For Respondents : M/s.V.Sitharanjandas
2 to 6

**ORDER**

Dismissing the protest Petition filed by the Petitioner under Section 173(8) of Cr.P.C., the present revision has been filed.

2. The Petitioner has given a complaint against the respondents 3 to 6 alleging that they have forged the Will said to have been executed by the mother and father of the Petitioner and third respondent. Based on the complaint, a criminal case has been registered and after investigation, the respondent-Police filed a final report stating that "'further action dropped'", as a civil suit is pending between the parties and the disputed will is also subjected in the civil suit. Thereafter the Petitioner filed a Protest Petition and the same has been dismissed by the trial Court. Challenging the same, the present revision has been filed.

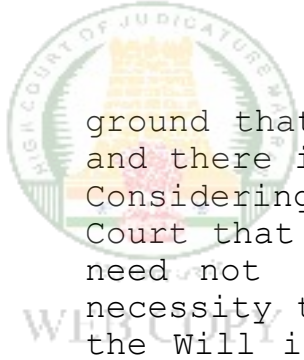
3. Heard the submissions of Mr.R.Diwakaran, learned counsel appearing for the Petitioner and Mr.C.Mayilvahana Rajendran, learned Additional Public Prosecutor appearing for the first respondent-State and Mr.V.Sitharajandas, learned counsel appearing for the respondents 2 to 6 and considered the materials on record.

4. The learned counsel for the Petitioner submitted that even though the Will was disputed in the suit, the Civil Court has disbelieved the Will and partly decreed the suit filed by the respondents 3 to 6 and an appeal is pending, as the Court below disbelieved the Will, it is more necessary, the respondent-Police sent the disputed Will for comparison and proceed with the investigation and file the final report. Without doing so, considering the pendency of the civil suit, the respondent Police closed the complainant as "'further action dropped'".

5. Per contra, the learned counsel for the respondents 2 to 6 would contend that the civil suit filed by the respondents 3 to 6 for partition based on the Will said to have executed by their father and mother. The Court below disbelieved the Will not on the ground that it has been a forged one. The Civil Court sent the Will for examination by the expert and the expert has also given a opinion that the Will is not a forged Will and the trial Court also did not give any finding that the Will is a forged one. The trial Court disbelieved the Will on the ground of suspicious circumstances surrounding the Will. When the Civil Court did not give any finding that the Will is a forged one, the Petitioner's complaint cannot be considered.

6. I have considered the rival submissions.

7. As rightly pointed out by the learned counsel for the respondent 2 to 6, though the Petitioner raise a plea of forgery of the Will in the Civil Court and the Will was also subjected to the expert opinion and expert also gave a opinion that it is not a forged Will. However, the trial Court disbelieved the Will on the



ground that there are suspicious circumstances surrounding the Will and there is no finding that the Will was forged by the respondents. Considering the fact that there is no specific finding by the Civil Court that the Will is a forged one and for that purpose, the Will need not once again send for the expert opinion, there is no necessity to conduct any further investigation to find out whether the Will is forged or not. In the above circumstances, considering all the above aspects, the trial Court had rightly dismissed the protest petition. I find no irregularity or illegality in the order passed by the Court below warranting interference by this Court.

8. Accordingly, the Criminal Revision Case is dismissed.

Sd/-
Assistant Registrar(P & A)

/True Copy/

Sub Assistant Registrar

To

1. The Judicial Magistrate No.II,
Karur.
2. -Do-Thro' The Chief Judicial Magistrate,
Karur.
3. The Deputy Superintendent of Police,
District Crime Branch,
Karur District, .
4. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1cc to Mr.V.SITHARANJANDAS Advocate in SR. NO.68512

+1cc to M/s.D.GEETHA Advocate in SR. No.69113

VSN

JS/SKN.RSK/SAR.2/16.08.2017/3P-7C

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