



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 11.07.2017

CORAM

THE HON'BLE MR.JUSTICE V.BHARATHIDASAN

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Crl.R.C (MD) .No.347 of 2013

G.Mariyappan

... Petitioner/Complainant
-Vs-

1. Sundar,
Village Administrative Officer,
Villuppanur Village,
Srivilliputhur Taluk,
Virudhunagar District.
2. Kannan,
Village Assistant (Tahlaiyari),
O/o Village Administrative Officer,
Villuppanur Village,
Srivilliputhur Taluk,
Virudhunagar District.
3. Muthaiya
Zonal Deputy Tahsildar,
O/o Tahsildar,
Srivilliputhur Taluk,
Virudhunagar District.
4. Tahsildar,
Srivilliputhur Taluk,
Virudhunagar District.
- 5.M.Mariyappan
- 6.Packiyalakshmi
- 7.Muniyasamy
- 8.Koodammal

... Respondents/Accused

Prayer : Criminal Revision Case filed under Section 397 r/w 401 of the Code of Criminal Procedure, against the order dated 18.02.2013 passed in Crl.M.P.No.4753 of 2011 on the file of the Judicial Magistrate No.2, Srivilliputhur.

For Petitioner

: Mr.M.Muthugeethayan for
M/s.V.Ramajegadeesan

For R4

: Mr.C.Mayilvahana Rajendran,
Additional Public Prosecutor

For R2

: Mr.Banuprasath

For R1, R3 & R5, R6

: No appearance

**O R D E R**

The petitioner has filed this revision, challenging the order dismissing the private complaint under Section 203 of Cr.P.C.

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2. The case of the petitioner in brief is as follows:-

A property measuring to an extent of 1.91.0 hectares (4 acres 73 cents), punja lands in Ayan Punja Survey No.1096/2 in Villuppanur village, Srivilliputhur Taluk originally belonged to one Marimuthu. Petitioner's uncle one Subba Naicker purchased the above property from him by way of a registered sale deed, dated 23.09.1964, thereafter, the petitioner along with the above Subba Naicker and other family members enjoyed the property jointly. Subsequently, by way of an oral partition, the said property was given to the petitioner and he has also obtained patta in his name and has been enjoying the property. Subsequently, the fifth respondent, who is the son of the original owner viz., Marimuthu has transferred the patta in his name in the year 2010 by creating false records. In the above circumstances, the petitioner said to have given a complaint before the police. Since, no action has been taken on his complaint, he has filed the present private complaint.

3.The learned Judicial Magistrate dismissed the above complaint under Section 203 Cr.P.C. stating that it is only a civil dispute, and no prima facie case has been made out for forgery or any other offence. Challenging the order, the present petition is filed.

4.I have heard Mr.M.Muthugeethayan, learned counsel appearing for the petitioner and Mr.C.Mayilvahana Rajendran, learned Additional Public Prosecutor appearing for the fourth respondent and Mr.Banuprasath, learned counsel appearing for the second respondent and perused the records carefully.

5.Even though notice has been served on the respondents 1, 3, 5 and 6 and their names have been printed in the cause-list, none appears on their behalf.

6.The learned counsel appearing for the petitioner vehemently contended that the petitioner's uncle Subba Naicker purchased the property in the year 1964 itself. Thereafter, in a family partition, the property was given to the petitioner and he has also obtained a patta in his name. Now, the fifth respondent, who is the son of the original owner, who has no title to the property, fraudulently, created a document and thereby, ~~subsequently~~ transferred the patta in his name. Therefore, he has committed forgery and also the offence under Section 420 of I.P.C.



7. I have considered the submissions and also perused the records carefully.

8. The main allegation of the petitioner in the complaint filed by him is that even though the patta has been transferred in his name, the fourth respondent/Tahsildar, without conducting any proper enquiry, transferred patta in favour of the fifth respondent. On a perusal of the complaint, it could be seen that absolutely, there is no allegation that the official respondent has committed any forgery in connivance with the fifth respondent. On the complaint, the grievance of the petitioner was that, the Tahsildar has transferred patta in favour of the fifth respondent. Admittedly, aggrieved with the order of transferring patta, the petitioner did not file any appeal. Even though it is alleged by the petitioner that the respondents created some false document and based on the said document, the official respondent transferred the patta, it is not stated what is the document created by the respondents. Considering all the above materials, the Court below dismissed the application holding that there is only a civil dispute and there is no material on record to show that the respondents had committed forgery and cheated the petitioner.

9. The learned counsel appearing for the petitioner submitted that absolutely, there is no civil dispute between the parties. But the Court below has erroneously held that it is a civil dispute. Even assuming there is no civil dispute, it is a case of transfer of patta. If the petitioner has any grievance, he can file an appeal before the competent authority, in stead of doing so, he has given a criminal flavour to the simple case of transfer of patta and filed the private complaint and the rights of parties can only be decided by the civil forum not before the criminal courts.

10. In view of the above, I find no illegality or irregularity in the order passed by the court below. Hence, there is no merit in the revision and the same is liable to be dismissed. Accordingly, this Criminal Revision Case is dismissed.

Sd/-

Assistant Registrar(CS-II)

/True copy/

Sub Assistant Registrar



To

1.The Judicial Magistrate No.2, Srivilliputhur.

2. The Tahsildar,
Srivilliputhur Taluk,
Virudhunagar District..

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

+1 cc to Mr.D.Srinivasaragavan , Advocate in SR.No. 64664

+1 cc to Mr.K.Seemaraj , Advocate in SR.No. 64760

vs

AE/MR KKR/SAR3/28.07.2017/4P/6C

Cr1.R.C(MD) No.347 of 2013
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