

IN THE HIGH COURT OF JUDICATURE AT MADRAS

ORDERS RESERVED ON :11.07.2018
ORDERS PRONOUNCED ON:06.08.2018

CORAM:

THE HONOURABLE MR. JUSTICE RMT.TEEKAA RAMAN

Cr1.R.C.No.469 of 2018

Mr.C.Chinnakannu

...Petitioner

Vs.

1.C.Jayanthi
2.S.Arunachalam
3.M.Rajendran

...Respondents

PRAYER: Petition filed under Section 397 read with 401 of the Criminal Procedure Code, to call for the records pertaining to the order dated 25.01.2018 passed in C.M.P.No.3124 of 2017 on the file of the Judicial Magistrate No.I, Ponneri and set aside the same.

For Petitioner : Mr.J.Ravikumar
For R1&R2 : Mr.K.Ramanujam
For R3 : Mr.E.Kannadasan

O R D E R

The private complainant is the revision petitioner herein.

2. The private complainant has filed in C.M.P.No.3124 of 2017 before the learned Judicial Magistrate-I, Ponneri alleging that the respondent herein have collected and accordingly, a false Enjoyment Certificate with held of V.A.O Rajendran and his daughter and son-in-law , the respondent herein and trying to grab his property and hence, private complaint under Section 200 of Cr.P.C for alleged offence under Sections 406, 409, 463, 465, 466, 471 and 120(B) of I.P.C

3. After hearing the learned Judicial Magistrate by an order dated 25.01.2018, dismissed the same and hence, the revision.

4. The case of the revision petitioner/private complainant is that is as follows:-

a) the complaint is having 3 daughters. Mrs.C.Jayanthi's and her husband namely Mr.S.Arunachalam who is a retired bank official are daughter and son in law of complainant. In the year

2014 and 2015, the complainant has borrowed sum of Rs.3,20,000/- from his son-in-law Arunachalam and same has been returned to his daughter Jayanthi with nominal interest on 17.06.2017 through RTGS for an amount of Rs.4,00,000/-.

b) On 13.06.2017 with the help of 3rd accused Rajendran, Village Administrative Officer, Padhirivedu, the daughter complainant i.e., the 1st accused obtained Enjoyment Certificate stating that she is residing in the 1st floor of the complainant house.

c) Based on the enjoyment certificate, the 1 and 2nd accused filed civil suit before sub Court at Ponneri in O.S.No.107/2017 for a relief of permanent injunction "restraining the defendants their men, agents and their subordinates from interfering in any manner with the plaintiff's possession and enjoyment of the 1st floor of house in the suit property". The complainant lodged criminal complaint before District Crime Branch, Thiruvallur on 26.06.2017 to register the F.I.R against accused 1 to 3, but no action taken from the police against them.

d) The complainant through his wife gave complaint to the Gummidipoondi Tahsildar about the forged enjoyment certificate issued by Rajendran/3rd accused. Based on the complaint Tahsildar, Gummidipoondi have replied to the complainant through letter dated 12.08.2017 stating that "enjoyment certificate given by VAO without visiting the premises is invalid".

e) the complainant filed Crl.O.P.No.16979 of 2017 to register complaint against the proposed accused and after receiving the Hon'ble High Court order in Crl.O.P.No.16979 of 2017 dated 21.08.2017 the respondent police without calling the complainant for any investigation, closed the complaint and sent intimation through registered post on 22.09.2017.

5. The learned counsel for the petitioner has submitted that under Document No.1927/01, S.R.O, Gummidipoondi, the petitioner has purchased the property from and out of earning in the name of his wife. His daughter Jayanthi, the first respondent and the son-in-law, the second respondent and he has borrowed a sum of Rs.3,20,000/- from his son-in-law Arunachalam during 2014 and 2015 and repaid to his daughter Jayanthi on 17.06.2017 as Rs.4,00,000/-. But on 13.06.2017 his elder daughter Jayanthi has obtained Enjoyment Certificate for the 1st floor of his house and without verifying the facts, the VAO has issued Enjoyment Certificate.

6. The learned counsel further contended that with enjoyment certificate his daughter has filed an injunction suit with regard to 1st floor and trying to grab his property. The

complainant further contends that he gave complaint through his wife before DCB, Thiruvallur against his daughter Jayanthi, son-in-law Arunachalam and VAO Rajendran, but said complaint was closed without calling him for any investigation, in spite of order of Hon'ble High Court in Crl.O.P.No.16979 of 2017. Hence, this complaint is filed for taking the case on file under Sections 406, 409, 463, 465, 466, 471 and 120B I.P.C as against A1 to A3.

7. It is clear that the case of the complainant is that by creating a false enjoyment certificate with help of VAO Rajendran, his daughter Jayanthi and son-in-law Arunachalam is trying to grab his property. On the above said facts it is clear that no ingredients with regard to Sections 406, 409, 463, 465, 466, 471 and 120B is made out and the dispute is civil in nature. With the above observation, this Court is inclined to dismiss this complaint.

8. The learned counsel for the first and second respondent would submit that there is no criminal intimation as against this petitioner and they are the daughter and son-in-law of the private complainant and the A3, VAO has issued the enjoyment certificate.

9. The learned counsel for the third respondent would submit that he is originally issued the enjoyment certificate based upon the field report submitted by the Assistant in the office of the V.A.O and after complaint received from the private complainant herein at the direction of the Tahsildar, he personally verify the report and subsequently found that the respondents 2 and 3 are not coming and residing the first floor and accordingly, the Tahsildar based upon his field report as cancelled the enjoyment certificate.

10. After perusing the private complaint filed before the learned Judicial Magistrate and after hearing the learned counsel for the petitioner and the learned Senior Advocate appearing for the respondents 1 and 2 and learned counsel for the third respondent, I do not find that there is no criminal intimation or any mens-rea and there is no allegation to take cognizance under Sections 406 and 409 are alleged offence under Section in the petition and hence, in the absence of any ingredients with regard to the alleged to have been committed the trial Magistrate has come to the right conclusion in rejecting the claim of the petition and same is well merited and well considered does not warrant any interference by this Court.

11. Accordingly, this Criminal Revision Petition is dismissed.

-s/d-
Assistant Registrar (CS-IX)

True Copy

Sub-Assistant Registrar

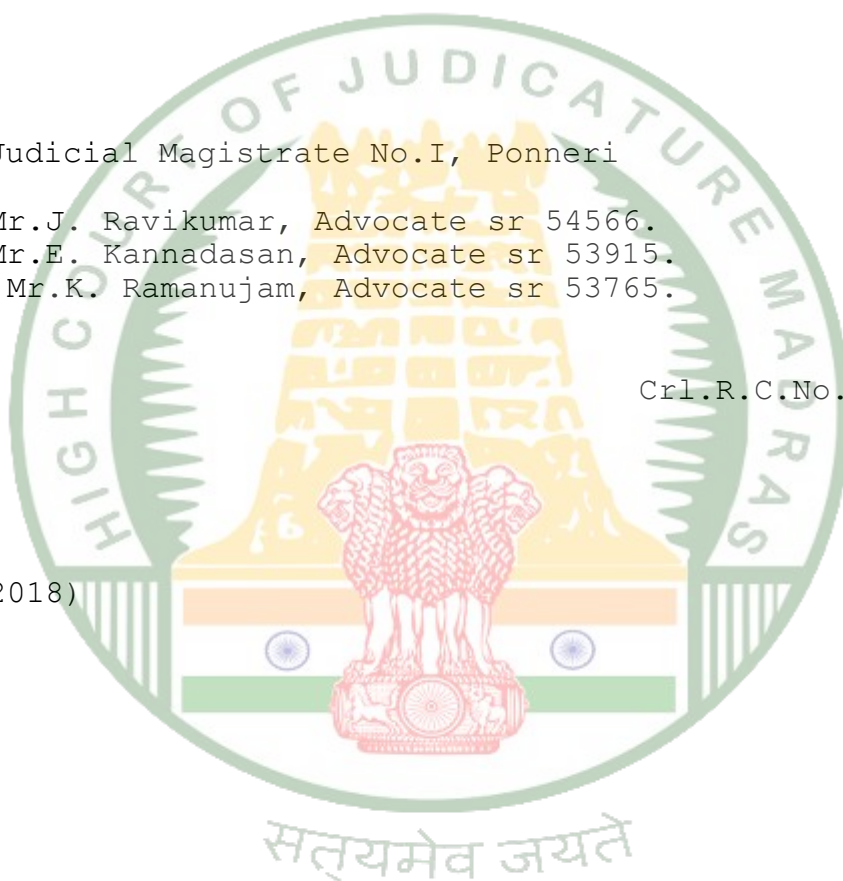
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To

The Judicial Magistrate No.I, Ponneri

+1 CC to Mr.J. Ravikumar, Advocate sr 54566.
+1 CC to Mr.E. Kannadasan, Advocate sr 53915.
+2 Ccs to Mr.K. Ramanujam, Advocate sr 53765.

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SP (17/09/2018)



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