

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 10.08.2018

CORAM

THE HONOURABLE Mr.JUSTICE P.N.PRAKASH

CRL.O.P.No.7872 of 2018

S.Rangaraj

... Petitioner

Vs

1. Haseena Banu,
Sub Registrar,
Registration Department,
Office of the Sub Registrar,
Chennimalai.

2. N. Rajkumar,
District Registrar,
Registration Department,
Erode District.

3. S.K.A.Munusamy

4. S.K.A.Babu @ Nachimuthu

.... Respondents

Criminal Original Petition filed under Section 482 Cr.P.C., to call for the records relating to the order dated 15.12.2017 made in Crl. R.C.No.49 of 2017 passed by the II Additional District Sessions Court, Erode confirming the order passed in Crl.M.P.No.2209 of 2017 dated 21.07.2017 passed by the District Munsif-cum-Judicial Magistrate, Perundurai and set aside the same.

For Petitioner : Mr.A.Thiagarajan

For R1 and R2 : Mrs.M.Prabhavathi, APP

For R3 and R4 : Mr.I.C.Vasudevan

O R D E R

This Criminal Original Petition has been filed to set aside the order dated 15.12.2017 passed by the II Additional District Sessions Court, Erode in Crl.R.C.No.49 of 2017.

2.The property in dispute in Pidariyur Village originally belonged to one Meenakshi Ammal (mother of the petitioner).

Meenakshi Ammal sold the property on 13.07.1966 to one Arumugam and Chockalingam vide document No.705 of 1966. In the Sale Deed, Meenakshi Ammal averred that she is selling the property for raising money to educate her children. After the demise of Meenakshi Ammal, the petitioner filed a private complaint in CrI.M.P.No.2209 of 2017 before the District Munsif cum- Judicial Magistrate, Perundurai against the respondents herein, alleging that his mother had not even signed the Sale Deed in document No.705 of 1966 and therefore, action must be taken against the accused. The first accused is the present Sub Registrar, the second accused is the District Registrar and accused 3 and 4 are the sons of purchaser Arumugam. It is the specific allegation of the petitioner that the registration authorities has given two Encumbrance Certificates, which do not correctly reflect the encumbrances in the property. The trial Court recorded the sworn statement of the petitioner and dismissed the complaint under Section 203 Cr.P.C. on 21.07.2017. Challenging the dismissal, the petitioner filed CrI.R.C.No.49 of 2017 before the Sessions Court, Erode and the same was heard by the II Additional District Sessions Judge, Erode and was dismissed on 15.12.2017. Challenging the orders passed by the Courts below, the petitioner is before this Court invoking the jurisdiction under Section 482 Cr.P.C.

3.Heard Mr.A.Thiagarajan, learned counsel for the petitioner and Mr.I.C.Vasudevan, learned counsel for the respondents 3 and 4.

4.The fact remains that the petitioner has invoked the revisional jurisdiction of the Sessions Court in CrI.R.C.No.49 of 2017 and had failed. Under Section 397(3) Cr.P.C, a second revision before the High Court is not maintainable. However, a petition under Section 482 Cr.P.C. is maintainable, if it is shown that the orders passed by the Courts below were without jurisdiction and manifestly illegal.

5.On the allegation that in the year 1966, the petitioner's mother had not signed the Sale Deed in Document No.705 of 1966, this private complaint has been filed by the petitioner in the year 2017. For prosecuting the private complaint, the petitioner stated that A1 and A2 had negligently issued the Encumbrance Certificates, which contradict each other. Except as provided under the IPC, negligence by itself will not amount to a criminal offence. The Magistrate has the jurisdiction to deal with the private complaint under Section 200 Cr.P.C and the Sessions Court also has the jurisdiction to entertain the revision petitions under Section 397[1] Cr.P.C. On facts, both the Courts have held that the complainant has not made out a prima facie case for issuing process to the accused under Section 204 Cr.P.C. This Court does not find any

infirmity in the orders passed by the Courts below for warranting interference. Hence, this petition is devoid of merits and dismissed.

Sd/-
Deputy Registrar (CS)

//True Copy//

Sub Assistant Registrar

gya

To

1.The Sub Registrar,
Registration Department,
Office of the Sub Registrar,
Chennimalai.

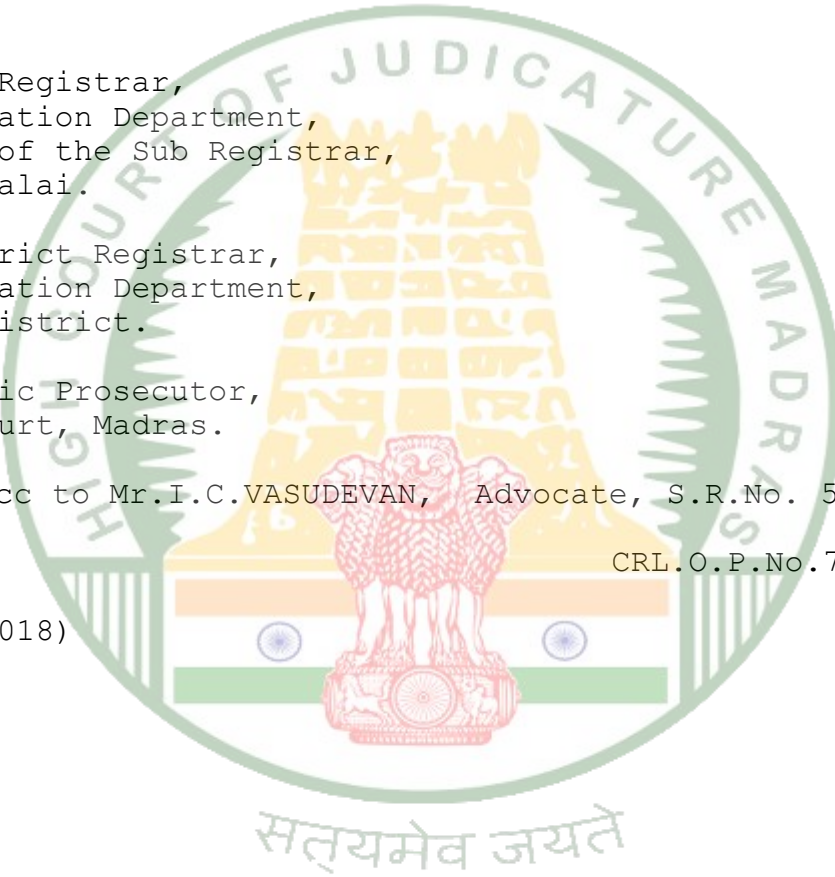
2.The District Registrar,
Registration Department,
Erode District.

3.The Public Prosecutor,
High Court, Madras.

+1cc to Mr.I.C.VASUDEVAN, Advocate, S.R.No. 55089

CRL.O.P.No.7872 of 2018

TR(21/08/2018)



WEB COPY