

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : **15.02.2018**

CORAM:

THE HONOURABLE MR.JUSTICE A.SELVAM
and
THE HONOURABLE MR.JUSTICE P.KALAIYARASAN

W.P.No.14288 of 2014
M.P.Nos.2 and 3 of 2014
and WMP.No.9469 of 2017
and Crl.O.P.No.15972 of 2014
and M.P.No.1 of 2014 and M.P.No.1 of 2015

W.P.No.14288 of 2014

T.S.Senthilkumar

.... Petitioner

Vs.

1. The Inspector General of Registration
20, Santhome High Road,
Chennai - 28.
2. The District Registrar (Admn)
Assistant Inspector General of Registration,
Erode, Erode District.
3. The Sub Registrar
Perundurai
Erode District.
4. The Inspector of Police
Perundurai Police Station,
Erode District.

5. T.M.Shanmugam

.... Respondents

Writ Petition filed under Article 226 of the Constitution of India, seeking an order to issue a writ, order or direction, specifically writ in the nature of writ of certiorari calling for the records relating to the impugned Circular No.67, dated 03.11.2011

in C.No.52338/C1/2011 on the file of the first respondent and the consequential order in Na.Ka.No.1847/A1/2013, dated 10.04.2014 (served on 08.05.2014) passed by the second respondent and quash the same.

For Petitioner : Mr.N.Manoharan
For Respondents : Mr.Kathirvelu, Spl.G.P for R1 to R4
Mrs.G.Thilagavathi, Senior counsel
for Mr.R.Gopinath for R5

Crl.O.P.No.15972 of 2014

T.S.Senthilkumar Petitioner

Vs.

1. The State rep. by the
Inspector of Police
Perundurai Police Station
Erode District.

2. T.M.Shanmugam Respondents

Criminal Original Petition filed under Section 482 Cr.P.C, seeking an order to call for the records pertaining to the FIR in Crime No.437 of 2013 on the file of the first respondent police and quash the same.

For Petitioner : Mr.N.Manokaran

For Respondents : No appearance for R1

Mrs.G.Thilagavathi, Senior counsel
for Mr.R.Gopinath for R2

COMMON ORDER

(Order of the Court was made by **P.KALAIYARASAN, J**)

The petitioner has filed the writ petition under Article 226 of the Constitution of India, seeking to call for the impugned

Circular No.67, dated 03.11.2011 in C.No.52338/C1/2011 on the file of the Inspector General of Registration (first respondent) and the consequential order in Na.Ka.No.1847/A1/2013, dated 10.04.2014 passed by the District Registrar (second respondent) and quash the same by issuance of writ of certiorari.

2. The same petitioner filed Crl.O.P.No.15972 of 2014 under Section 482 Cr.P.C seeking to quash the FIR in Cr.No.437 of 2013 on the file of the Inspector of Police, Perundurai police station (first respondent in Crl.O.P.).

3. Considering the fact that the relief sought in Crl.O.P.No.15972 of 2014 is interlinked with the issue involved in the writ petition, both the writ petition as well as the criminal original petition are taken up together for disposal and common order is passed.

4. The petitioner Senthilkumar challenges the Circular No.67, dated 03.11.2011 issued by the first respondent and the order in Na.Ka.No.1847/A1/2013, dated 10.04.2014 passed by the District Registrar. The above Circular No.67, dated 03.11.2011 itself has been withdrawn by the Government in Circular Lr.No.41530/U1/2017, dated 20.10.2017.

5. The learned counsel appearing for the petitioner in the writ petition as well as in the criminal original petition argued that the impugned order in Na.Ka.No.1847/A1/2013, dated 10.04.2014 is only a consequential order passed by the District Registrar (second respondent) pursuant to the Circular No.67, dated 03.11.2011 and therefore the same is liable to be quashed. He further argued that a complaint was given by one T.M.Shanmugam (second respondent in CrI.O.P and fifth respondent in writ petition) before the Judicial Magistrate and he forwarded the same to the Inspector of Police, Perundurai police station under Section 156(3) of Criminal Procedure Code for investigation and accordingly, the Inspector of Police registered the case in Cr.No.437 of 2013 for the offence under Sections 420, 465, 467 and 471 r/w 120 IPC and as per the averments made in the complaint, no such offence is made out and therefore the FIR is liable to be quashed.

6. The learned Senior counsel appearing for the fifth respondent in W.P.No.14288 of 2014 argued that the impugned order in Na.Ka.No.1847/A1/2013, dated 10.04.2014 is not a consequential order of the Circular No.67 and the above impugned order has been passed by the District Registrar, directing the Sub-Registrar to initiate prosecution against the petitioner under Section

83 of the Registration Act, 1908 and the learned District Registrar after analysing the materials placed before him passed the reasoned order and the same is to be proceeded with as per law. It is further argued that FIR in Cr.No.437 of 2013 was registered on the complaint of Shanmugam and forwarded by the concerned Judicial Magistrate, only because the offences as mentioned in the FIR have been made out and there is no abuse of the process to invoke the inherent jurisdiction of this Court under Section 482 Cr.P.C.

7. There is no dispute that Circular No.67, dated 03.11.2011 in C.No.52338/C1/2011 has been withdrawn as per Lr.No.41530/U1/2017, dated 20.10.2017. The impugned order has been passed by the District Registrar on the complaint given by the fifth respondent, seeking to cancel the Document No.838 of 2012, namely the Settlement Deed. There is no whisper as to the cancellation of document as per Circular No.67, dated 03.11.2011 in the order. The order permits the Sub-Registrar to commence the prosecution. Reasoning given for such order is also convincing and acceptable. The above impugned order has been passed as per Section 83 of the Registration Act, 1908. As per the above provision, a prosecution for any offence under the Registration Act, 1908 may be commenced with the permission of the Registrar.

Therefore the above said impugned order in Na.Ka.No. 1847/A1/2013, dated 10.04.2014 is valid in law.

8. The fact also remains that two Civil Suits are pending between the parties with respect to the document. Pendency of civil proceedings does not forbear the authorities to commence the prosecution for the offences committed under the Act.

9. As far as Criminal Original Petition is concerned, this Court carefully perused the FIR. The complaint discloses cognizable offences as alleged. The main allegation of the second respondent in the complaint is that the petitioner in CrI.O.P created a forged Will as if executed by his grand father to grab the property and executed the settlement deed in favour of his wife on the basis of the forged Will and also mutation of Revenue records.

10. This Court does not see any abuse of process so as to invoke the jurisdiction under Section 482 Cr.P.C. It is made clear that as per the impugned order in the writ petition, Sub-Registrar can commence prosecution by lodging a complaint with the police. For the aforesaid reasons, both the writ petition as well as criminal original petition are liable to be dismissed.

In the result, both the writ petition and the criminal original petition are dismissed. The Sub-Registrar, Perundurai (third respondent) is directed to commence the prosecution as per the order in Na.Ka.No.1847/A1/2013, dated 10.04.2014 within a month from the date of receipt of a copy of this order. The first respondent in CrI.O.P, Inspector of Police, Perundurai police station is directed to investigate the Cr.No.437 of 2013 along with the complaint to be given by the Sub-Registrar or independently and file final report expeditiously. No costs. Consequently connected miscellaneous petitions are closed.

(A.S., J.) (P.K., J.)
15.02.2018

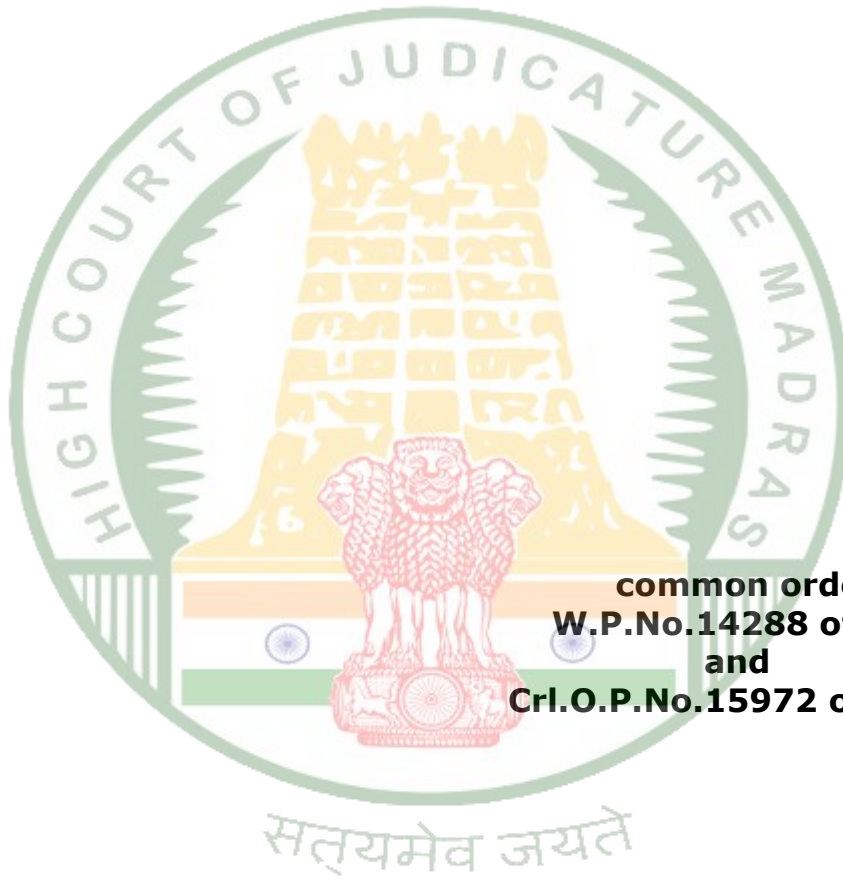
Index : Yes

tsvn

To

1. The Inspector General of Registration
20, Santhome High Road,
Chennai - 28.
2. The District Registrar (Admn)
Assistant Inspector General of Registration,
Erode, Erode District.
3. The Sub Registrar
Perundurai, Erode District.
4. The Inspector of Police
Perundurai Police Station,
Erode District.

A.SELVAM, J.
AND
P.KALAIYARASAN, J.
tsvn



common order in
W.P.No.14288 of 2014
and
Crl.O.P.No.15972 of 2014

WEB COPY

15-02-2018