

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :07.08.2018

CORAM

THE HONOURABLE Mr.JUSTICE P.N.PRAKASH

Cr1.O.P.No.14769 of 2018

Muthayammal

... Petitioner

Vs

1.The Superintendent of Police,
Erode District,
Erode - 638 001.

2.The Inspector of Police,
Anti Land Grabbing Special Wing,
Office of the S.P. Of Police,
Erode - 1.

... Respondents

Prayer:- Criminal Original Petition filed under Section 482 Cr.P.C., to set aside the order of closure of the complaint, dated 13.04.2018 passed by the 2nd respondent and direct the 1st respondent to entrust the investigation to a competent investigation officer for fair and proper investigation of the complaint dated 28.01.2018.

For Petitioner :Mr.N.Manokaran

For Respondent :Mr.C.Iyyapa Raj,
Additional Public Prosecutor

ORDER

It is the case of the petitioner that the petitioner's husband [Palanisamy] died on 19.08.2016; after his death, his nephew filed O.S.No.547 of 2017 before the Principal District Munsif Court, Bhavani, for partition on the strength of an unregistered Will, dated 27.05.2013, allegedly executed by the petitioner's husband. The allegation of the petitioner is that her husband's signature is forged in the Will and the suit has been filed. Therefore, the petitioner lodged a complaint dated 29.01.2018. Based on which, an enquiry was conducted and the same has been closed by the Inspector of Police (Land Grabbing

Cell) on 13.04.2018 on the ground that the impugned Will is in the Court and the police cannot take possession of the same. Challenging the closure report, the petitioner is before this Court.

2. Heard Mr.N. Manokaran, learned counsel for the petitioner and Mr.Iyyappa Raj, learned Additional Public Prosecutor for the respondents.

3. Under normal circumstances, this Court will not interfere into such closure report as there are other remedies available to the complainant in both Civil and Criminal law. However, in this case, already the closure report dated 13.04.2018, filed by the Inspector of Police, has relied upon the judgment of this Court in 2008 MLJ Criminal Page 46 and had closed the complaint.

4. In the opinion of this Court, the said judgment is not relevant to the fact in issue, especially, after the judgment of the Constitution Bench of Supreme Court in Iqbal Singh Marwah & Anr vs Meenakshi Marwah & Anr (2005(4) SCC 370), wherein the Supreme Court has stated that if the document is forged out side the Court, the protection under Section 195 Cr.P.C. is not available. The police can proceed with the investigation and prosecute the offender without resorting to Section 195 Cr.P.C.

5. Hence, the closure report dated 13.04.2018, is hereby set aside and the respondent police is directed to register the FIR and proceed further with the investigation. The investigating Officer may approach the Principal District Munsif, Bhavani, to handover the original Will for the purpose of investigation and on such request being made, the Principal District Munsif, Bhavani, shall take photo copy of the impugned Will and after certifying the same, hand over the original Will for their investigation and due acknowledgment. The Deputy Superintendent of Police, (DCB), is directed to monitor the investigation.

6. With the above direction, this petition is closed.

Sd/-
Deputy Registrar

//True Copy//

Sub Assistant Registrar

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To

1.The Principal District Munsif,
Bhavani.

2.The Superintendent of Police,
Erode District,
Erode - 638 001.

3.The Deputy Superintendent of Police (DCB),
Erode.

4.The Inspector of Police,
Anti Land Grabbing Special Wing,
Office of the S.P. Of Police,
Erode - 1.

5.The Public Prosecutor,
High Court, Chennai.

+1cc to Mr.N.Manokarn, Advocate Sr.54528

Crl.O.P.No.14769 of 2018

srg 31/08/2018



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