



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 15.03.2018

CORAM:

WEB COPY

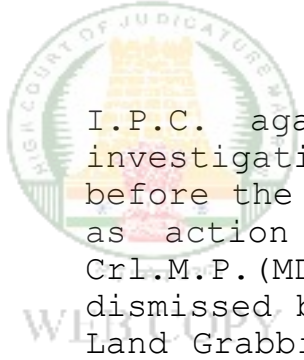
THE HONOURABLE MR.JUSTICE P.N.PRAKASHCrl.R.C.(MD) No.105 of 20181.R.Perumal
2.R.Madasamy... Petitioners/Petitioners
vs.1.Jesu Raja
2.Subbiaya Thevar
3.Poologapandian
4.Serjiv
5.E.S.Ashok
6.T.Thavamani Thangaraj
7.S.Thambirajan Tholapillai
8.M.Hytharkhan
9.E.N.Ramasamy
10.A.Kandasamy
11.P.Nambikoonar
12.P.Tamilselvan
13.E.S.Ashok
14.Ilango
15.E.N.Palanisamy
16.Arumugam
17.E.N.Othisamy

... Respondents/Respondents

PRAYER: Criminal revision filed, under Section 397 r/w 401 Cr.P.C., to call for the records from the lower Court and to set aside the order passed by the Special Court for Land Grabbing Cases, Tirunelveli, Tirunelveli District in her Crl.M.P.No.836/2015 dated 15.09.2017 and take cognizance and direct the learned Special Court for land Grabbing Cases Tirunelveli to proceed the case in accordance with law.

For Petitioners : Mr.V.Kathirvelu
Senior Counsel for Mr.K.PrabhuFor 8th Respondent : Mr.R.Shankar Ganesh**O R D E R**

The petitioner filed a petition under Section 156(3) Cr.P.C. in Crl.M.P.No.1396 of 2011 before the Judicial Magistrate No.I, Tirunelveli and on the orders of the learned Judicial Magistrate, the respondent police registered a case in Crime No.34 of 2011 on 24.03.2011 under Sections 120(b), 420, 406, 419, 465, 468, 471



I.P.C. against Jesu Raja and 16 others. After completing the investigation, the police filed a closure report dated 16.08.2012, before the Judicial Magistrate No.I, Tirunelveli, claiming the case as action dropped. The petitioner filed a protest petition in CrI.M.P.(MD) No.836 of 2015 in Crime No.34 of 2011, which has been dismissed by the Special Judicial Magistrate, The Special Court for Land Grabbing Cases, Tirunelveli on 15.09.2017. Aggrieved by which, the petitioners are before this Court.

2.Heard Mr.V.Kathirvelu, learned Senior Counsel for the petitioners and Mr.R.Shankar Ganesh, learned counsel for 8th respondent.

3.Mr.V.Kathirvelu, learned Senior Counsel for the petitioners submitted that the petitioners have given substantial evidence to show that the land in question belongs to them was grabbed by the accused.

4.Per contra, Mr.R.Shankar Ganesh, learned counsel for the 8th respondent refuted the allegations and submitted that the accused have dealt with the land in question only by registered document and the allegation of land grabbing is false.

5.In order to appreciate the contention of the petitioners, this Court carefully perused the complaint lodged by the petitioners which formed basis for registration of the F.I.R. in Crime No.34 of 2011.

6.It is the case of the petitioners that the land in question, namely, 7 Acres 36 Cents in S.Nos.1943/2 and 1863/2 belonged to Ramasamy Konar and that Ramasamy Konar executed a Will in the year 1983, which was registered as document No.18/1983 bequeathing the said property to the petitioners. It is the allegation of the petitioners that the accused had set an impersonator and had executed the sale deed in document No.3408 of 1992 and had it registered in Parasalai Sub-Registrar Office in Kerala State. Thus, the sum and substance of the allegation of the petitioner is that document No.3408 of 1992 is a fabricated document.

7.In the closure report, Police have stated that they took the photographs of the thumb impressions available in the office of the Sub Registrar, Palasalai in respect of document No.3408 of 1992 and also in respect of document No.2972 of 1994 on the file of Sub Registrar, Panagudi and sent it for comparison along with the thumb impressions of the petitioners to the Forensic Science Laboratory and the report in C.No.170/FPB showed that the thumb impressions are of the same persons. Therefore, the police filed the closure report on the ground that document No.3408 of 1992 has been executed by the petitioners. In the opinion of this Court, in view of scientific evidence, the acceptance of the closure report by the Magistrate cannot be said to be illegal, warranting interference.



8.Hence, the Criminal Revision Case is devoid of merits and is dismissed, of course, with liberty to the petitioners to file a private complaint, if they so desire. It is made clear that whatever observations made above are only for deciding this Criminal Revision Case.

WEB COPY

Sd/-

Assistant Registrar(RTI)

/True copy/

Sub Assistant Registrar

To:

1.The Special Judicial Magistrate,
The Special Court for Land Grabbing Cases,
Tirunelveli.

Crl.R.C.(MD) No.105 of 2018
15.03.2018

sj

MS/SV-MMS/SAR-4/04.04.2018/3P.2C