



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON: 09.04.2018

DELIVERED ON : 17.04.2018

CORAM

THE HONOURABLE MRS. JUSTICE R. THARANI

CrI. R.C.(MD)No.200 of 2018

and

CrI. M.P.(MD)No.2654 of 2018

M.Kumaresan

.. Petitioner

Vs.

The State
Rep. By Inspector of Police,
Thalamuthunagar Police Station
Thoothukudi.
(Crime NO.15 of 2014)

.. Respondent

Prayer : This revision case is filed under Sections 397 r/w. 401 of Cr.P.C., to call for the records in connection with the order passed by the learned Judicial Magistrate No.II, Thoothukudi in Cr.M.P.No.2368 of 2017 in C.C.No.341 of 2016 dated 07.03.2018 and set aside the same.

For Petitioner

: Mr.A.S.Vaigunth

For Respondent

: Mr.K.Sumbulinga Bharathi

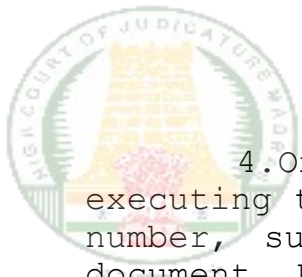
Government Advocate(CrI. Side)

ORDER

Heard Mr.A.S.Vaigunth, learned counsel appearing for the petitioner and Mr.K.Sumbulinga Bharathi, learned Government Advocate (CrI. Side) appearing for the respondent.

2.This revision case has been filed to set aside the order passed in Cr.M.P.No.2368 of 2017 in C.C.No.341 of 2016 dated 07.03.2018 on the file of the learned Judicial Magistrate No.II, Thoothukudi, dismissing the discharge petition filed by the petitioner.

3.The respondent registered a case against the petitioner in Crime No.15 of 2014 for the offences under Sections 468, 471 and 506 (ii) IPC alleging that the land to an extent of 94 cents situated in Survey No.130/1 belongs to Government and the petitioner has created a forged patta in his name and executed a General Power of Attorney in favour of his father S.Karuppasamy in Doc.NO.557 of 2010, who in turn converted the 94 cents of land into 23 plots and sold Plot No.23 to one N.Sankar through document No.1163/2011.

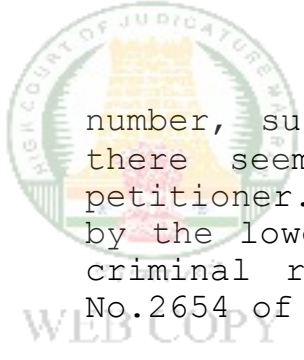


4. On the side of the petitioner, it is stated that while executing the General Power of Attorney and the sale deed, the patta number, survey number and boundary are wrongly mentioned in the document. Realising the mistake, the petitioner has cancelled those documents even before the date of FIR. It is stated that the petitioner was unaware of the title and that he involved in this matter only believing the words of his father. The petitioner has no intention to grab the Government land as there is no such intention the basic ingredients for the offences under Sections 468, 471 and 506(ii) IPC are missing. The property in question is enjoyed by the father of the petitione. Only in the later point of time, the petitioner came to know that the patta number, survey number and boundaries of the property are wrongly mentioned in the document. Aggreived person, who purchased the piece of disputed land, settled the matter out of the Court. The wrong committed was rectified. The complainant is only a third party. The petitioner appeared before the Tahsildar and the complaint was dropped by the revenue Department. If the trial in C.C.No.341 of 2016 is liable to proceed, the petitioner will be put to irreparable loss. The petitioner filed the discharge petition and the same was dismissed by the learned Judicial Magistrate No.II, Thoothukudi and hence, the order is to be set aside.

5. On the side of the respondent, it is stated that the accused is an Sub Inspector of Police and that to grab the Government land, he has executed a General Power Attorney in favour of his father. The father in turn sold the property to third person. The petitioner has not claimed that he is adjacent land owner. No such document is filed by the petitioner to prove that the mistake committed by him was bonafide. No document supporting the claim of the petitioner is filed either before the lower Court or before this Court.

6. On the side of the petitioner, it is further stated that even prior to the filing of the FIR, the petitioner has cancelled the General Power of Attorney and has cancelled the sale deed. There is no loss for the Government and there is no wrongful gain for the petitioner and the offence is compoundable in nature.

7. Records perused. Though the petitioner claimed that the patta number, survey number, boundaries are wrongly stated in the General Power of Attorney and in the sale deed, he has not narrated as to how the mistakes crept in those document. The petitioner has not claimed anything that he has referred some other property instead of the particulars of this property. The particulars of those properties which is wrongly stated is not given. No such document are filed by the petitioner. The disputed property is a Government land. The petitioner is a Government Servant whose duty is to safe guard the Government properties. The petitioner can prove his case during the trial proceedings. There is remote chance for mistake to be crept in a document in all particulars that is patta



number, survey number and boundaries. In the above circumstances, there seems to be a *prima facie* offence made out against the petitioner. There is no necessity to interfere with the order passed by the lower Court. There is no merits in the petition. Hence, the criminal revision case is dismissed. Consequently, Crl. M.P.(MD) No.2654 of 2018 is closed.

Sd/-

Assistant Registrar (AS)

/True Copy/

Sub Assistant Registrar

To

1.The Judicial Magistrate No.II, Thoothukudi.

2.The Inspector of Police,
Thalamuthunagar Police Station,
Thoothukudi.

3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai

mrn

RL/4C/3P/RSK/SAR3/3/5/2018

Crl. RC.(MD)No.200 of 2018

17.04.2018