



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 30.08.2018

CORAM :

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

Crl.R.C.(MD) No.232 of 2018

and

Crl.M.P.(MD) Nos.2984 and 2985 of 2018

S.Ramakrishnan

... Petitioner

Vs.

1.State through

The Inspector of Police,
District Crime Branch,
Nagercoil,
(Crime No.47 of 2012)
Kanyakumari District.

2.B.Ramadoss

[R2 has been impleaded
vide order dated 27.06.2018]

... Respondents

PRAYER: The Criminal Revision Case filed under Section 397 r/w 401 of the Code of Criminal Procedure, to call for the records relating to the order passed by the learned Judicial Magistrate No.I, Nagercoil in Crl.M.P.No.3269 of 2015 in C.C.No.159 of 2014 dated 07.03.2018 set aside the same.

For Petitioner : Mr.M.Subash Babu

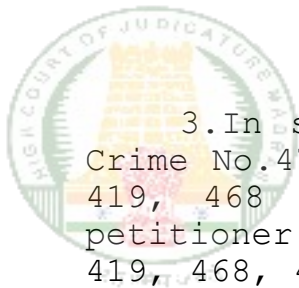
For R1 : Mr.A.Robinson
Government Advocate (Crl.Side)

For R2 : Mr.S.Makeswaran for
Mr.G.Prabhu Rajadurai

ORDER

This revision case has been filed to call for the records relating to the order passed by the learned Judicial Magistrate No.I, Nagercoil in Crl.M.P.No.3269 of 2015 in C.C.No.159 of 2014 dated 07.03.2018 and to set aside the same.

2.A piece of land in S.No.M4/12-8A at Vadiveeswaram Village, is the subject matter of the dispute and the petitioner herein claims right over the property based on the sale deed executed by one Antony on 30.08.2001. The second respondent herein namely, B.Ramadoss, claims right over the property based on the sale deed executed by Thamayanthi W/o. Kasi Viswanathan. Between the parties, a civil dispute regarding declaration of title is also pending.



3. In such circumstances, based on the complaint registered in Crime No.47 of 2012 by the DCB of Police, Nagercoil, under Sections 419, 468 and 471 IPC, final report has been filed against the petitioner herein and others as accused for offence under Sections 419, 468, 469, 471 and 120(B) (2) r/w 34 IPC.

4. The contention of the petitioner is that petition to discharge, has been dismissed by the trial Court without considering the entire facts of the case, which is purely civil in nature. The pendency of the civil suit between the parties regarding title not properly appreciated by the Court below.

5. Heard the learned counsel on either side.

6. Records perused.

7. Reading of the impugned order clearly indicates that the property originally held by one Chellammai, has been sold to one Iyappanpillai. Later, taking advantage of the phonetical similarity, a document has been created as if one Thangaraj S/o. Chellammal has executed a power of attorney to one Antony who in turn has sold the property in favour of the petitioner herein.

8. As far as the rival claim of the second respondent, it is stated that Chellammai sold the property to Iyappanpillai, who died intestate leaving behind his wife and daughter, his wife namely, Indira, on her behalf and for her minor daughter executed a power of attorney on 05.11.2004 in favour of one Kasi Viswanathan, who in turn sold the property to his own wife Thamayanthi that has been purchased by Ramadoss in the year 2005. Either way, both parties claimed title for the same

property. The investigation has *prima facie* indicated that the title deed of the petitioner is not genuine.

9. In such circumstances, discharge of the petitioner on the ground that there is a civil dispute cannot be countenanced. When a specific allegation of forgery and cheating coupled with conspiracy is made out, discharging of the petitioner on the ground pendency of civil suit is unsustainable. Accordingly, the revision case is dismissed.

10. The learned counsel for the petitioner would submit that the physical appearance of the accused person should not be insisted, if it is not necessary and his appearance may be dispensed with on filing the petition.

11. This Court finds no reason to decline this request. The trial Court shall entertain the petitioner under Section 317 for dispensing with the appearance of the petitioner as and when he files a petition for dispense with, with sufficient reason.



12.The learned Government Advocate (Crl.Side) would submit that the charges have already been framed in this case on 07.08.2018 and the trial Court has issued summons to the witnesses to be examined on 04.09.2018.

13.In such circumstances, the trial Court is directed to complete the trial as expeditiously as possible. Consequently, the connected miscellaneous petitions are closed.

Sd/
Assistant Registrar(AS)

/True copy/

Sub Assistant Registrar (CS-III)

To

1.The Judicial Magistrate No.I,
Nagercoil.

2.The Inspector of Police,
District Crime Branch,
Nagercoil,
Kanyakumari District.

+1cc to Mr.G.PRABHU RAJADURAI, Advocate, SR.No. 81397
+1cc to Mr.M.SUBASH BABU, Advocate, SR.No.81385

Crl.R.C.(MD) No.232 of 2018
30.08.2018

MM
KK/SV/SAR-3/05.10.2018/3P-5C