



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 02.11.2018

CORAM:

THE HONOURABLE DR. JUSTICE G. JAYACHANDRAN

Crl.R.C(MD)No.88 of 2014

and

M.P. (MD) .No.1 of 2014

1.Ramakrishnan

2.Rani

3.Raguveerapandian

4.Senthilkumar

.. Petitioners/Petitioners/Accused

Vs.

State rep. by,
The Sub Inspector of Police,
Paramakudi Town Police Station,
Paramakudi,
Ramanathapuram District.

.. Respondent/Respondent/
Respondent

PRAYER: Criminal Revision Case is filed under Section 397 read with Section 401 of the Code of Criminal Procedure, to call for the records relating to the order dated 16.12.2013 in Cr.M.P.No.5348 of 2013 in C.C.No.36 of 2010 on the file of the learned Judicial Magistrate, Paramakudi and set aside the same.

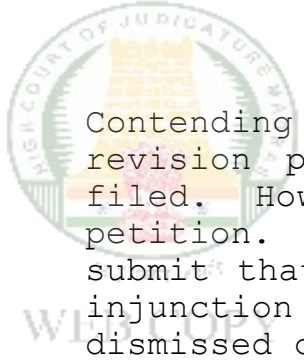
For Petitioners : Mr.K.Baalsundharam

For Respondent : Mr.A.Robinson

Government Advocate (Criminal side)

ORDER

This revision petition is directed against the dismissal of discharge petition filed by the accused in Cr.M.P.No.5348 of 2013 in C.C.No.36 of 2010. The charge against the revision petitioners sold their property to one Sebastian and in turn, the said Sebastian sold the property to one Ambrose. The vendor/revision petitioners, namely, Ramakrishnan, his wife Rani and his sons Raguveerapandian and Senthilkumar, in order to cheat the buyer and his successor in title had caused a caveat notice forging the signature of the said Senthilkumar and also a notice through a lawyer on behalf of Senthilkumar without the knowledge of the said Senthilkumar.



Contending that there is no *prima facie* material against the revision petitioners/accused 1 to 4, the discharge petition was filed. However, the trial Court has dismissed the discharge petition. The learned counsel for the revision petitioners would submit that the defacto complainant-Sebastian filed Civil Suit for injunction against A1 and A4 in O.S.No.120 of 2006 and the same was dismissed on 19.11.2010. The Civil Court has held that Sebastian has no title over the suit property. The appeal preferred by the defacto complainant got dismissed on 12.04.2012. While so, there is no material to proceed against the petitioners for the alleged offence under Sections 467, 420, 471 r/w 109 IPC.

2. The trial Court has dismissed the application on the ground that the charges has already been framed and the trial Court has no power to discharge the accused after charges are framed.

3. When the matter came up for admission, the learned counsel appearing for the revision petitioners submitted that pending trial of the criminal case, the defacto complainant-Sebastian died. The first accused Ramakrishnan also died. The parties have settled their dispute and the property is now in possession of the said Ambrose, who derives title through Sebastian-the defacto complainant.

4. To ascertain the said fact, this Court ordered notice to Ambrose. Today Mr.A.R.Arputharaj, (Enrolment No.1767/08) learned counsel represents that Ambrose has instructed him to say that the property is in possession of Ambrose and he has no interest in pursuing the case. On the face of the record and the subsequent development, this Court finds that there is no material sufficient to proceed with the trial against the revision petitioners for the above said alleged offences. Whether the signature found in the caveat notice or the lawyer notice issued in the name of Senthilkumar is varied or without instruction of Senthilkumar cannot be an ingredient to prosecute the petitioners for the offences under Sections 467, 471, 420 r/w 109 IPC. The trial Court has dismissed the discharge petition on the ground that charge has already been framed and therefore petition under Section 239 Cr.P.C. cannot be entertained. But under 482 Cr.P.C., this Court has inherent power to pass any order to meet the ends of justice. In this case, the facts indicates that the defacto complainant has already died and the person who has purchased the property through the defacto complainant is put in possession of the property.

5. The caveat notice and the lawyer notice issued in the name of Senthilkumar has culminated in O.S.No.120 of 2006 and had reached the logical end. Though the learned counsel says that the second appeal preferred by the Sebastian and Ambrose is pending, the suit is only for bare injunction and now the complainant having conceded the possession with Ambrose, nothing survives in this matter. Hence, this Criminal Revision Case is allowed. The case pending against the petitioners in C.C.No.36 of 2010 on the file of



the learned Judicial Magistrate, Paramakudi is hereby quashed. Consequently, connected miscellaneous petition is closed.

WEB COPY

Sd/-
Assistant Registrar (RTI)

/True Copy/

Sub Assistant Registrar (CS-I)

To

1. The Judicial Magistrate,
Paramakudi.
2. The Chief Judicial Magistrate,
Ramanathapuram District.
3. The Sub Inspector of Police,
Paramakudi Town Police Station,
Paramakudi,
Ramanathapuram District.
4. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.
5. The Record Keeper, Criminal Section,
Madurai Bench of Madras High Court,
Madurai. (2 Copies)

+ 1 CC TO Mr.K.BAALASUNDHARAM, ADVOCATE IN SR No. 94137

PJL

TE/BK/SAR-1 : 14/12/2018 : 3P/8C

ORDER MADE IN
Crl.R.C (MD) No.88 of 2014
02.11.2018