



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 30.08.2018

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CORAM:

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

Cr1.O.P.[MD].No.8378 of 2016

AND Cr1 M.P.(MD) No.4094 Of 2016

Suyembu : Petitioner / Petitioner / Respondent

Vs.

1.Suyambulingam : 1st Respondent / 1st Respondent /
Petitioner

2.The State represented by
The Inspector of Police,
Anti Land Grabbing Special Cell,
Thoothukudi District,
O/o.Superintendent of Police, Koramballam,
Thoothukudi. : 2nd Respondent / 2nd Respondent / 2nd
Respondent

PRAYER: Criminal Original Petition is filed under Section 482 of Cr.P.C. to set aside the order passed by the learned Principal District and Sessions Judge, Thoothukudi in Cr1.R.C.No.19 of 2014 dated 20.04.2016 confirming the order passed by the learned Judicial Magistrate, Special Court for exclusive trial of Land Grabbing Cases, Thoothukudi in Cr1.M.P.No.1032 of 2014 dated 01.08.2014 and allow the above petition.

For Petitioner : Mr.C.Jeganathan

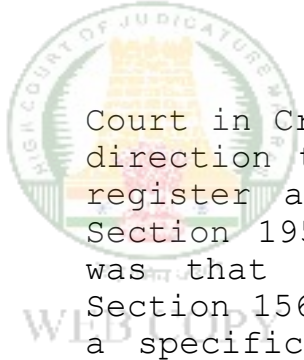
For R1 : Mr.A.Thiruvadi kumar

For R2 : Mr.M.Chandra Sekaran
Additional Public Prosecutor

ORDER

This Criminal Original Petition has been filed aggrieved by the order passed in Cr1.R.C.No.19 of 2014, by the learned Principal Sessions Judge, Thoothukudi, confirming the order passed by the learned Judicial Magistrate, Special Court for Land Grabbing Cases, Thoothukudi in Cr1.M.P.(MD).No.1032 of 2014.

2.The first respondent filed a petition before the Special



Court in Cr.M.P.No.1032 of 2014, seeking for the relief of issuing a direction to the Inspector of Police to investigate the matter and register a First Information Report against the petitioner under Section 195 (1) (b) (i) Cr.P.C. The case of the first respondent was that the petitioner had preferred a false complaint under Section 156(3) Cr.P.C. on the basis of fabricated documents. It was a specific case of the first respondent that the documents were fabricated even before they were produced before the Court. In this Petition, the Special Court had passed an order directing the Police to collect all the documents along with the thumb impression. Aggrieved by the same, the petitioner had filed a Criminal Revision Petition before the Sessions Court, Thoothukudi and the Sessions Court had passed an order confirming the order of the Special Court, against which the petitioner had filed this Criminal Original Petition.

3.The learned counsel appearing for the petitioner would submit that in the facts and circumstances of the case, Section 195 (1) (b) (i) Cr.P.C. will have no application, since admittedly the documents were fabricated even before it was produced before the Court. Therefore, the learned counsel appearing for the petitioner would further submit that the entire procedure adopted by the Court below is illegal and the same requires inference of this Court.

4.The learned counsel appearing for the first respondent would fairly submit that the specific averment that was made in the complaint was that the petitioner had produced fabricated documents in this complaint and therefore, action has to be taken against him. The learned counsel would further submit that it was always open for the first respondent to independently initiate the proceedings against the petitioner and it is not necessary for the first respondent to file such a petition under Section 195 (1) (b) (i) Cr.P.C.

5.The learned counsel also brought to the notice of this Court, the judgment of the Hon'ble Supreme Court made in (1998) 2 SCC 493- (Sachidanand Singh and another Vs. State of Bihar and another) and (2005) 4 SCC 370- (Iqbal Singh Marwah and another Vs. V.Meenakshi Marwah and another). The Hon'ble Supreme Court, in the above referred decisions, had categorically held that where the offence has been committed even before the documents came into the Court, the Provisions of Section 195 (1) (b) (i) Cr.P.C. will not have any application. In this case, the offence according to the first respondent has been committed even before the documents were brought before the Court. Therefore, as rightly contented by the learned counsel appearing for the first respondent, the first respondent can always work out his remedy by initiating independent proceedings against the petitioner.



6. In view of the above, this Criminal Original Petition stands allowed and the order of the Sessions Court made in CrI.R.C.No.19 of 2014 confirming the order of the Special Court made in CrI.M.P.No.1032 of 2014 is hereby set aside. Liberty is given to the first respondent to work out his remedy in the manner known to law. consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar (CS-III)

/True Copy/

Sub Assistant Registrar

To

1. The Principal District and Sessions Judge,
Thoothukudi.

2. The Judicial Magistrate,
Special Court for exclusive trial of Land Grabbing Cases,
Thoothukudi.

3. The Inspector of Police, Anti Land Grabbing Special Cell,
Thoothukudi District,
o/o The Superintendent of Police,
Koramballam,
Thoothukudi District.

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

+1cc to M/S.Veera Associates, SR No.81352

+1cc to Mr.A.Thiruvadi Kumar, Advocate in SR No.81625

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NM/SV/SAR 4/20.09.18/3P/7C



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