



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 14.08.2018

CORAM

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

CRL.R.C. (MD) No.411 of 2018

and

Crl.M.P. (MD) Nos.5852 and 5853 of 2018

1.Abdullah
2.Peer Mohamed
3.Ismail
4.Ibrahim
5.Abdul Rasack
6.Mohamed Illias

... Revision Petitioners/ Petitioners/
Accused 1 to 3 and 5 to 7

Vs

State represented by,
Inspector of Police,
District Crime Branch,
Tirunelveli.
Crime No.35 of 2011

... Respondent/Complainant

PRAYER: Criminal Revision Petition filed under Section 397 r/w 401 of Cr.P.C, praying, to call for the records from the lower Court and to duly set aside the order passed in Cr.M.P.No.3463 of 2018, dated 18.06.2018 in C.C.No.81 of 2015, on the file of the Judicial Magistrate No.I, Tirunelveli, Tirunelveli District.

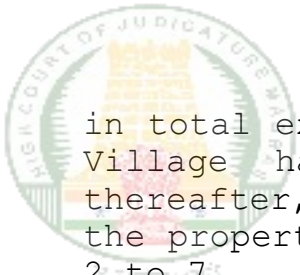
For Petitioners : Mr.V.Kathirvelu, Senior Counsel
for Mr.K.Prabhu

For Respondents : Mr.A.Robinson
Government Advocate (Crl.side)

O R D E R

Heard the learned senior counsel for the petitioners and the learned Government Advocate (Crl.side).

2.The contention of the petitioners is that the prosecution has failed to examine the alleged purchaser Veeraputhira Devar who happens to be the purchaser of the property from the father of the petitioners herein vide sale deed dated 21.09.1967. But the case of the prosecution is that the first accused who purchased 1/3rd share



in total extent of 5 acres 44 cents in Survey No.58 at Kalapakkulam Village had sold his 1/3rd share to Veeraputhira Devar and thereafter, he has created a document in the year 2010 by settling the property in favour of his sons who are arrayed as accused 2 to 7.

WEB COPY

3.The specific case of the prosecution is that the thumb impression found in the register in respect of these two documents alleged to have affixed by A1 was sent to scientific examination and found to be one and the same. Having sold his 1/3rd share to Veeraputhira Devar vide registered sale deed in the year 1967. Subsequently, in the year 2010, fraudulently, A1 has settled the property in favour of A2 to A7. To substantiate their case, the prosecution has filed final report along with necessary documents and 161 statements of the 11 witnesses.

4.The contention of the petitioners is that without examining Veeraputhira Devar who has sold 5 acres forty four cents to Rajapalayam Ramasamy Raja @ Kovil Raja son of Raghava Raja and the other persons, the investigation itself is a concocted one. Whether any person by name Veeraputhira Devar who registered or executed the alleged sale deed is genuine or not is under doubt.

5.Further, it is contended by the learned counsel that while Veeraputhira Devar has purchased only 1 acre 82 cents from A1, he has sold a larger extent of 5 acres and 44 cents to Raghava Raja which fact has also not been properly proved.

6.Heard both sides. Records perused.

7.From the records, this Court finds that Veeraputhira Devar having purchased 1 acre 82 cents i.e., 1/3rd share in Survey No.58 and had subsequently purchased remaining portion of the land from Samy, Chellaiah, Murugaiah, son of Kottur, Muthu Pandi, son of Pandi and Murugaiah, thereby, a larger extent of land 5 acres 44 cents had to be in his possession which he has later sold to Raghava Raj.

8.According to the learned counsel for the petitioner, those persons were not examined by the Investigating Officer and their statements are not furnished to him. The bare fact which touches upon the alleged averment is that A1 who has sold the property in the year 1967 to Veeraputhira Devar has again settled the property in favour of A2 to A7 knowing fully well that he is not the owner of the property.

9.In the said circumstances, non-examination of the other persons may not be a ground to discharge these accused. It is for the trial Court to consider the merits of the prosecution case while examining the witnesses and take decision.

<https://hcservices.ecourts.gov.in/hcservices/>

10.In the said circumstances, this Court is not inclined to



entertain this revision petition. Hence, petition is dismissed.
Consequently, connected miscellaneous petitions are closed.

Sd/

Assistant Registrar(CS-I)

/True copy/

WEB COPY

Sub Assistant Registrar(CS-II)

To

1.The Judicial Magistrate No.I, Tirunelveli,
Tirunelveli District.

2.The Inspector of Police,
District Crime Branch, Tirunelveli.

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

+1cc to Mr.K.PRABHU, Advocate, SR.No. 78747

CRL.R.C. (MD) No.411 of 2018

10.08.2018

RMI

KK/SKN/SAR-2/28.09.2018/3P-5C