



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 14.08.2018

CORAM:

THE HONOURABLE DR.JUSTICE **G.JAYACHANDRAN**
Crl.R.C(MD)No.471 of 2018

WEB COPY

R.Balendran

: Petitioner/Complainant

Vs.

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

: 1st Respondent/Investigating
Officer

2.Rajendran

3.Rajeswari

: 2nd and 3rd Respondents/ Accused

PRAYER: Revision filed under Section 397 read with Section 401(1) of the Code of Criminal Procedure, to set aside the order passed in C.M.P.No.2702 of 2016 dated 06.03.2018 on the file of learned Judicial Magistrate No.II, Kuzhithurai.

For Petitioner

: Mr.S.C.Herold Singh

For R-1

: Mr.A.Robinson,

Government Advocate (Crl.Side).

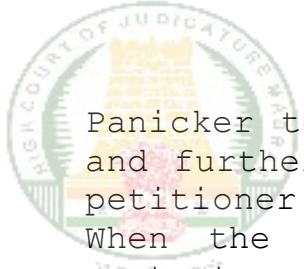
ORDER

This criminal revision case is filed seeking to set aside the order passed in C.M.P.No.2702 of 2016 dated 06.03.2018 on the file of learned Judicial Magistrate No.II, Kuzhithurai.

2.Heard the learned counsel appearing for the petitioner and the learned Government Advocate (Crl.Side) appearing for the first respondent.

3.Aggrieved by the dismissal of the protest petition, the present revision has been filed.

4.The sum and substance of the case of the petitioner is that the father of the petitioner is the owner of the property in Survey No.108/3 at Aramanai Village. He died on 12.03.1994 leaving behind his wife and nine children. The petitioner is one among them. Some of his legal heirs claim exclusive right over the property, based on the alleged Will dated 27.04.1990. The case of the petitioner is that the said Will is a forged document and no right was given to the rival parties through that Will and therefore, the subsequent settlement deed, dated 29.04.2014, based on the alleged Will of his father, is illegal. Alleging forgery of the Will, the petitioner has filed a complaint. After investigation the Investigating Officer has filed a report saying that there is no document containing the signature of Ragunatha



Panicker to compare with the signature found in the disputed Will and furthermore, the allegation is purely civil in nature and the petitioner can redress his grievance only through Civil Court. When the notice was issued to the *de facto* complainant, the protest petition was filed before the trial Court. After considering the report as well as the contention made in the protest petition, the trial Court has accepted the final report and rejected the protest petition. Aggrieved by that, the present criminal revision case has been filed.

5. On perusing the document, this Court has no other opinion than what the trial Court has expressed in the impugned order. If at all, the petitioner is aggrieved by the alleged Will executed by his father, either on its contents or its genuineness, he has to agitate the same before the Civil Court and if there is a specific finding regarding the execution of the Will in favour of the accused, it is always open to him to prosecute the perpetrator of the Will.

5. With the above observations, this Criminal Revision Case is dismissed.

Sd/-

Assistant Registrar (CS-II)

/True Copy/

Sub Assistant Registrar (CS-II)

To

1. The Judicial Magistrate No. II, Kuzhithurai.

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

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

+1cc to Mr. S.C. Herold Singh, Advocate Sr.No. 78607

CP

VB/KAK/SAR2/04.09.2018/2P/5C

ORDER MADE IN
Cr1.R.C (MD) No. 471 of 2018
14.08.2018