

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 11.03.2019

CORAM:

THE HONOURABLE MR. JUSTICE P.VELMURUGAN

CrI.R.C.No.333 of 2016

K.T.Sree Manickam @ T.Manickam

...Petitioner

Vs.

1. Prakash Chandra
2. Ashok kumar
3. Arun Kumar
4. Hemant Kumar
5. Pavan Bai
6. Dolly Jain
7. L.Jithendra Kumar
8. Thanesh Kumar M Jain
9. D. Kavitha
10. Kittesh
11. P.Pravin Kumar
12. Sulekha Jain
13. P.Mahaveer Kumar
14. P.Vikaram Kumar
15. M.Ashok Kumar Jain
16. Jayakumari
17. Narendra Kumar Muktha
18. Kala Jain
19. P.Ajit Jain
20. Shilpa Jain
21. Dinesh Kumar Pocmani
22. G.Vimal Jain
23. Kavitha
24. S.Abishek Kumar
25. Sonal Kothari
26. M.Chandan Kumar

...Respondents

The Criminal Revision is filed under Section 397 read with 401 of Code of Criminal Procedure, against the order dated 06.10.2015 passed in C.M.P.No.2867 of 2015 on the file of the learned Judicial Magistrate No.V, Coimbatore.

For Petitioners : Mr.K.V.Sridharan

For Respondents : Mr.R.Bharath kumar For R1 to R3,R4 & R6
R5 No appearance

O R D E R

This Criminal Revision has been filed against the order dated 06.10.2015 passed in C.M.P.No.2867 of 2015 on the file of the learned Judicial Magistrate No.V, Coimbatore.

2. It is the case of the revision petitioner that the complainant is legal heir of one Late Mr.G.Thangavel, son of Late Ginjappan. The said late Ginjappan had purchased the property with an extent of 3763 and half sq. ft. of vacant land vide sale deed dated 27.07.1995 with registration No.1424 of 1995 of Palakkad Registration District, Kozhinjampara Sub Registration District, Kerala. The said late Thangavel had purchased the land with an extent of 3763 and half sq.ft. of land vide registration sale deed dated 27.07.1995 with registration No.1423 of 1995 of Palakkad Registration District, Kozhinjampara Sub Registration District, Kerala. The total extent of these adjoined property is 7527 sq. ft.

3. Both the late Ginjappan and Thangavel had jointly entered into a Construction Agreement dated 06.11.1996 in the said property with the accused viz., Jayantilal G Bafna for building residential apartment. However, the said construction agreement was not enforced by both the parties. The late Thangavel had sold his portion of the property to the A2 and A3 and one Mr.Shrenik vide sale deed dated 09.07.2001. However, the said late Ginjappan had not sold his portion of the property to anyone.

4. Thereafter, the petitioner has come to know that all the accused had entered into a criminal conspiracy to fabricate three sale deeds dated 05.03.2001 in favour of A1,A2 and A3. The revision petitioner has filed a private complaint under 200 Cr.P.C. against respondents 1 to 26 before the learned Judicial Magistrate-V, Coimbatore and the same was taken on file in C.M.P.No.2867 of 2015. After hearing the both side, the learned Magistrate dismissed the case. Challenging the order of the learned Magistrate, the complainant has filed this revision before this Court.

5. The learned counsel for the petitioner would submit that there is a prima facie allegation levelled against the respondents, that can be proved after recording the statements not at this stage. The learned Magistrate has failed to consider these aspects and dismissed the case which warrant interference.

6. Heard both sides and perused the materials available on record.

7. The learned Magistrate, while receiving the private

complaint, should apply his mind. Mere sending the notice to the respondent is not sufficient. The learned Magistrate should verify as to whether there is a prima facie allegation made out against the respondents.

8. On reading of the complaint filed by the revision petitioner and also order passed by the learned Magistrate, it could be seen that the complainant is son of Late Thangavel and the late Thangavel is son of late Ginjappan. The said late Ginjappan died in the year 2004. The alleged document was executed in the year 2001. Neither the Ginjappan nor the Thangavel challenged the document during their life time. The petitioner is not in a position to say as to whether the father of the defacto complainant Thangavel pre-deceased to his grant father Ginjappan or not.

9. On reading of the records would shows that the learned Magistrate has applied his mind and formed an opinion that there is no sufficient ground for proceeding and dismissed the complaint under Section 203 of Cr.P.C. This Court does not find any perversity in the order passed by the learned Magistrate and there is no merit in the revision.

10. In the result, the criminal revision case is dismissed.

Sd/-
Assistant Registrar(CCC)

//True copy//

Sub Assistant Registrar

rli

To

The Judicial Magistrate No.V, Coimbatore.

Copy To : The Section Officer, Criminal Section,
High Court, Madras.

+1cc to Mr.K.V.Sridharan, Advocate SR.No.23325

+1cc to Mr.R.Bharath Kumar, Advocate SR.No.22928

Cr1.R.C.No.333 of 2016

PPA (CO)
GMY (26/04/2019)