

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.04.2019

CORAM:

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

Cr1.O.P.No.3267 of 2014
and
M.P.Nos.1 & 2 of 2014

1.Sakunthala

2.S.Moorthy

... Petitioners

Vs.

S.R.Ramesh

... Respondent

PRAYER:

Criminal Original Petition filed under Section 482 Cr.P.C. praying to call for the records relating to the criminal case in C.C.No.76 of 2013 on the file of the learned Judicial Magistrate, Tiruchengode quash the same by allowing this criminal original petition.

For Petitioners: Mr.N.Manokaran

For Respondent : Mr.V.Balamurugane

ORDER

This Criminal Original Petition has been filed to quash the proceedings in C.C.No.76 of 2013 on the file of the learned Judicial Magistrate, Tiruchengode, having been taken cognizance for the offences punishable under Sections 120(b), 420, 406, 465, 466, 467, 468, 469 and 471 I.P.C.

2. It is seen that the present complaint has been filed by the respondent on the basis of the order passed by the Civil Court in I.A.No.690 of 2011 in O.S.No.251 of 2010. It is helpful to extract the relevant portion of the said order as follows:

"6. Apart from that it could be seen that this respondent has produced Ex.R1 and R2 which are the letters sent by the District Treasury Officer, Erode

and Sub Treasury Officer, Tharapuram in which they have clearly stated that the stamp paper in which the the alleged Will typed was sold only on 19.08.2009 by the District Treasury, Erode to Sub Treasury, Tharapuram and in turn the Sub Treasury, Tharapuram had sold the same only on 17.11.2009 to one Kale Gowder, the stamp vendor.

7. On perusal of the alleged unregistered Will, it is typed in the Rs.20 stamp paper in sl.No.54AA.240856. The said serial No. of stamp paper was sold only on 17.11.2009 to the stamp vendor from the Sub Treasury, Tharapuram. While that being so it is significant to note that the unregistered Will typed in the stamp paper as if it was executed on 16.07.2009 even prior to the sale of the stamp paper from the Erode District Treasury. Therefore no mere perusal of the Ex.R1 and R2, it is quite clear that the alleged Will has been forged and fabricated by putting anti dated in the stamp paper and that is why the petitioner has not at all stated anything about this Will in I.A.No.767 of 2007. Therefore this petitioner has committed fraud not only on the respondent / Defendants but also on the court. Therefore this petitioner is liable for criminal prosecution as she has committed fraud upon the court by forging and fabricating the alleged unregistered Will dated 16.07.2009 produced along with this petition.

8. Therefore, it is quite clear that the said alleged unregistered Will is not a genuine one and it is only a forged and fabricated one and that is why there is no signature or thump impression of the deceased Govindasamy obtained in the first page of the Will that is in the stamp paper.

9. Under these circumstances this petitioner has not at all approached the court with clean hands and she made an attempt to cheat and mislead the court by producing the forged Will. Therefore, the delay in filing the petition to implead the LRS cannot be condoned. Apart from that this petitioner has not at all impleaded the other legal heirs of the deceased Govindasamy in this petition as respondents. On this ground also this petition is not maintainable."

3. Therefore, there are specific averments and allegations in the private complaint lodged by the respondent. As such this Court finds no merits in this petition and the same is liable to be dismissed.

4. However, considering the age of the first petitioner, the personal appearance of the first petitioner is dispensed with and she shall be represented by a counsel after filing appropriate application. The first petitioner shall be present before the Court at the time of furnishing of copies, framing charges, questioning under Section 313 Cr.P.C. and at the time of passing judgment.

5. Further considering the case is of the year 2013, the learned Judicial Magistrate, Tiruchengode is directed to complete the trial in C.C.No.76 of 2013 within the period of three months from the date of receipt of this order.

6. With the above observations, this Criminal Original Petition is dismissed. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

lok

To

1.The Judicial Magistrate,
Tiruchengode

2.do Thro The Chief Judicial Magistrate,
Namakkal.

+1cc to Mr.N.Manokaran, Advocate sr.32328

+1cc to Mr.V.Balamurugane, Advocate, sr.no.32254 (09.09.2019)

Cr1.O.P.No.3267 of 2014
and M.P.Nos.1 & 2 of 2014

nr 24/04/2019

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