

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.03.2019

CORAM:

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

Crl.O.P.Nos.18303 & 22157 of 2014
and Crl.M.P.Nos.1 & 1 of 2014

1.Jayanthan

2.Velumani

... Petitioners in
Crl.OP.No.18303 of 2014

Ramalingam

.... Petitioner in
Crl.OP.No.22157 of 2014

Vs

K.S.Sivakumaran

.... Respondents
in both Crl.OPs

Common Prayer:

Criminal Original Petition filed under Section 482 Cr.P.C. to call for the records pertaining to the proceedings instituted upon a private complaint in C.C.No.82 of 2013 on the file of the Learned Judicial Magistrate, Arni and Quash the same.

For Petitioners : Mr.P.Satheesh Kumar
in both Crl.O.P.'s

For Respondent : No Appearance
in both Crl.O.P.'s

COMMON ORDER

This Criminal Original Petition has been filed to call for the records pertaining to the proceedings instituted upon a private complaint in C.C.No.82 of 2013 on the file of the Learned Judicial Magistrate, Arni and quash the same.

2.The learned counsel for the petitioners submitted that the property in dispute was purchased in the court auction sale and sale certificate was also issued in favour of the petitioner in Crl.O.P.No.22157 of 2014 / A1 on 10.12.2007. The respondent is none other than the original owner of the property and who borrowed loan in the Indian Bank. Thereafter, he defaulted and

as such the property was attached and encashed in the public auction. In the public auction, the petitioner in Crl.O.P.No.22157 of 2014 purchased the property through auction for valid consideration. While mutating the revenue records in favour of him, the complaint has been lodged by the respondent alleging that he forged the entire records and created sale deed in favour of him and thereafter with the help of A2 and A3 he was trying to mutate the revenue records in favour of him. Therefore he prayed for quashment of the private complaint.

3. Heard the learned counsel for the petitioners. Though the counsel for the respondent entered appearance, no one appeared.

4. The petitioners are A1 to A3. On perusal of records it shows that A1 purchased the property under the SURFAESI proceedings and also the sale certificate issued in favour of the first accused on 10.12.2007. Thereafter patta was also issued in favour of the first accused in respect of the disputed property. While mutating the revenue records in the name of the first accused, it is seen that the respondent / defacto complainant lodged a complaint alleging that the revenue records are mutated without due process of law and they are trying to change the revenue records in favour of the first accused with the help of the second and third accused persons. It shows that the respondent borrowed loan for the purpose of business from the Indian Bank to the tune of Rs.17 lakhs. Thereafter he defaulted in repayment of the loan and as such the property which was mortgaged for loan was brought for public auction. During the public auction, the first accused purchased the property for valid consideration and the sale certificate was issued in his favour. Therefore, patta was also issued in his favour and thereafter, he filed appropriate application before the second and third accused to mutate the revenue records in his favour. Therefore, there is no offence made out as against the petitioners as alleged by the respondent. As such the complaint itself is not sustainable as against the petitioners.

5. Accordingly, this Criminal Original Petition is allowed and the proceedings in C.C.No.82 of 2013 on the file of the Learned Judicial Magistrate, Arni is quashed. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-III)

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Sub Assistant Registrar

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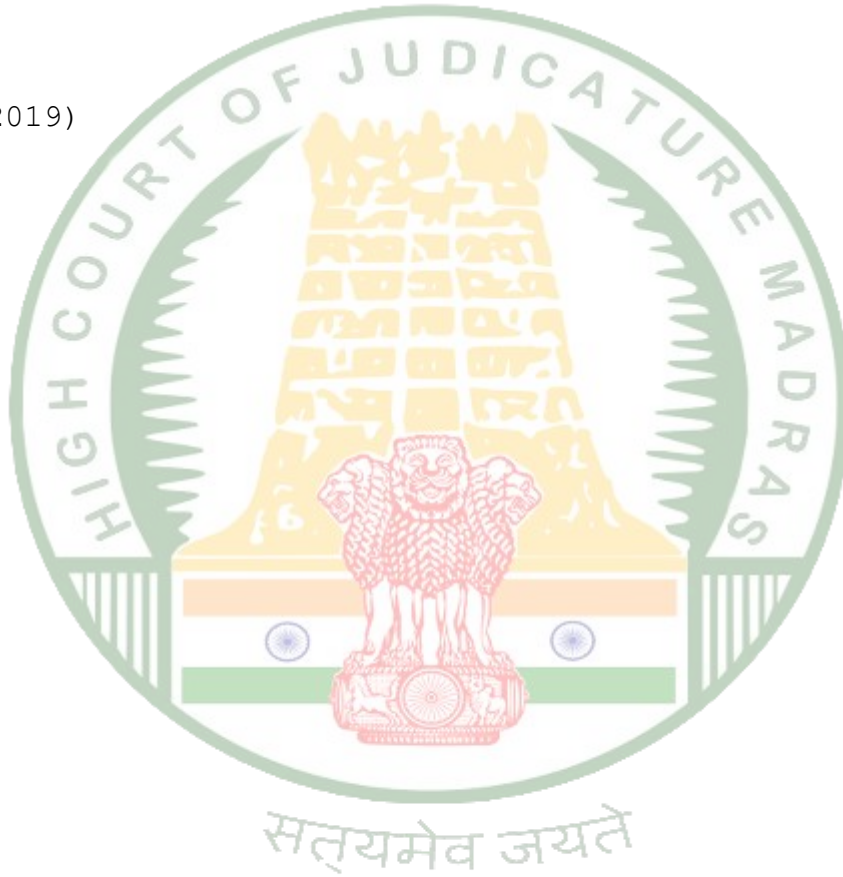
To

1.The Judicial Magistrate,
Arni.

2. Do Thro Chief Judicial Magistrate,
Arni.

Crl.O.P.Nos.18303 & 22157 of 2014
and Crl.M.P.Nos.1 & 1 of 2014

PPA (CO)
GN (22/05/2019)



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