



BEFORE THE MADURAI BENCH OF THE MADRAS HIGH COURT

DATE : 25.11.2019

CORAM

WEB COPY

THE HONOURABLE MR. JUSTICE V.PARTHIBAN

CRL. R.C. (MD) NO.795 OF 2019

Jesbar Milton Maharaja

.. Petitioner

- Vs -

1.T.Devarajan
2.Subash
3.Anantharaman
4.Shanmugavel
5.Mariappan
6.Rajkumar

.. Respondents

Criminal Revision Case filed u/s 397 r/w 401 of the Code of Criminal Procedure, to call for the records relating to the order passed by the learned Special Court, Anti Land Grabbing Cases (In-charge) Tuticorin in Crl.M.P.No.201/2019 dated 24.09.2019 set aside the same.

For Petitioner : Mr.R.Maheswaran

For Respondents : Mr.A.W.D.Tilak (for R1 & R2)

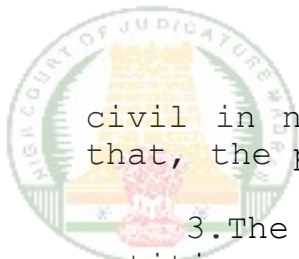
Mr.A.Thiruvadikumar (for R3 & R4)

No appearance (for R5 & R6)

ORDER

The present revision petition has been filed against the order passed by the Special Court, Anti Land Grabbing Cases (In-charge) Tuticorin in Crl.M.P.No.201/2019 dated 24.09.2019.

2.The petitioner's case is that the respondents 1 and 2 have created a forged patta in respect of a set of properties and claimed title over the same in order to grab the property from the ownership of the petitioner. Therefore, a complaint was filed and thereafter, the petitioner approached the learned Judicial Magistrate and filed a petition under Section 156(3) of Cr.P.C, to order investigation as to the allegation of the petitioner against the respondents 1 and 2. The learned Magistrate after adverting to the materials passed a cryptic order saying that the issue involved between the parties is



civil in nature and therefore, dismissed the petition. As against that, the present criminal revision petition has been filed.

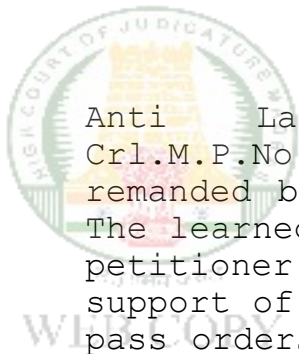
3.The learned counsel for the petitioner would submit that the petitioner has made a serious allegation of fraud against the respondents 1 and 2 and alleged that the respondents 1 and 2 were involved in the offences under Sections 420, 468, 120(b), 423, 470 and 34 of IPC. According to the petitioner, the respondents 3 and 4 have also colluded with the other respondents. Unfortunately, the learned Judicial Magistrate without due appreciation and examination of serious allegation levelled against the respondents, have simply dismissed the petition on the ground that the issue involved was civil in nature and therefore, the learned counsel would say that the matter may be remanded back to the learned Judicial Magistrate No.I, (In charge) Special Court for Anti Land Grabbing Cases, Thoothukudi for passing a reasoned order on the basis of the materials produced by the petitioner herein.

4.Heard Mr.A.W.D.Tilak learned counsel appearing for the respondents 1 and 2 and Mr.A.Thiruvadikumar, learned counsel appearing for the respondents 3 and 4.

5.As far as the objection of the learned counsel for the respondents 1 and 2, their objection may not be heard at this stage, since the learned Magistrate has not even taken cognizance of the complaint under Section 200 of Cr.P.C and therefore, their presence in this court is only a formality. As far as the other two respondents, namely, respondents 3 and 4, the learned counsel made a submission that they were not involved in the allegation at all.

6.I have considered the submissions of the learned counsel appearing for the respective parties. This Court is in agreement with the submission on behalf of the petitioner that the Magistrate has to appreciate the serious set of allegations levelled against the respondents. In fact, it appears that the petitioner has also produced the documentary proof for the alleged forgery committed by the respondents 1 and 2. Unfortunately, the learned Magistrate without appreciating the said document, dismissed the petition stating that the dispute between the parties was purely civil in nature. No doubt, the dispute is civil in nature, at the same time, we cannot rule out that the dispute has criminal colour. The learned Magistrate has failed to appreciate that there are certain disputes which can be proceeded against civilly and criminally. Although the learned Magistrate seems to have referred to the contents of the matter, yet ultimately, the conclusion of the Magistrate is without any reason which vitiates the entire order.

7.In the above circumstances, this Court is of the view that the order passed by the Magistrate cannot be countenanced both on law and on facts and the same is liable to be set aside. Therefore, the order passed by the learned Judicial Magistrate, Special Court,



Anti Land Grabbing Cases (In-charge) Tuticorin in Crl.M.P.No.201/2019 dated 24.09.201 is set aside and the matter is remanded back to the learned Magistrate for passing orders afresh. The learned Magistrate is directed to provide due opportunity to the petitioner and after due appreciation of the materials which are in support of the petitioner/complainant, the Magistrate is directed to pass orders on merits and in accordance with law within a period of six weeks from the date of receipt of a copy of this order.

8.With the above direction, this criminal revision petition is disposed.

Sd/-

Assistant Registrar (AS)

// True Copy //

Sub Assistant Registrar(CS)

skn

To

The Judicial Magistrate, Special Court,
Anti Land Grabbing Cases (In-charge) Tuticorin.

+1 CC to M/s.R. MAHESWARAN, Advocate (SR-101395[F] dated 26/11/2019

+1 CC to M/s.A.W.D. TILAK, Advocate (SR-101745[F] dated
27/11/2019)

CRL. R.C. (MD) NO.795 OF 2019
25.11.2019

JMN(17.12.2019) 3P : 4C