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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 02.07.2019

CORAM:

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

Cr1.R.C. (MD) No.720 of 2013

S.V.Rengaraj

.. Petitioner/Petitioner

Vs.

1. Ramalingam
2. Sakthivel
3. Thavamani

.. Respondents/Respondents

Prayer : This Criminal Revision petition is filed under Section 397 r/w 401 of Cr.P.C., to set aside the order passed in Cr1.M.P.No.952 of 2013, dated 16.04.2013 on the file of the learned District Munsif cum Judicial Magistrate, Orathanadu, Thanjavur District.

For Petitioner : Mr.V.Illanchezian

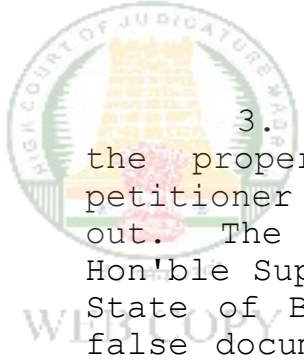
For R-1

For R-2 & R-3 : No appearance.

ORDER

The petitioner filed a private complaint against the respondents herein alleging the commission of offences of forgery and cheating. According to the petitioner, revenue records stand in his name in respect of the property in question. But respondents 1 and 2 have executed a registered sale deed in favour of the third respondent herein. This had furnished the basis for launching the private complaint. The learned trial Magistrate dismissed the same. Questioning the same, this Criminal Revision has been filed.

2. When the matter was taken up for hearing, the learned counsel appearing for the Revision petitioner reiterated all the contentions set out in the memorandum of grounds. He submitted that the property in question very much belonged to the petitioner and that the accused are attempting to grab it.



3. It is quite possible that the petitioner is the owner of the property in question. But then, the offences which the petitioner is lodging against the respondents are not really made out. The case on hand is squarely covered by the decision of the Hon'ble Supreme Court reported in (2009) 8 SCC 751 (Mohd. Ibrahim V. State of Bihar). The Hon'ble Supreme Court has defined what is a false document. Paragraph Nos.16 and 17 of the said decision would read as under:-

"16. There is a fundamental difference between a person executing a sale deed claiming that the property conveyed is his property, and a person executing a sale deed by impersonating the owner or falsely claiming to be authorised or empowered by the owner, to execute the deed on owner's behalf. When a person executes a document conveying a property describing it as his, there are two possibilities. The first is that he bona fide believes that the property actually belongs to him. The second is that he may be dishonestly or fraudulently claiming it to be his even though he knows that it is not his property. But to fall under first category of "false documents", it is not sufficient that a document has been made or executed dishonestly or fraudulently. There is a further requirement that it should have been made with the intention of causing it to be believed that such document was made or executed by, or by the authority of a person, by whom or by whose authority he knows that it was not made or executed.

17. When a document is executed by a person claiming a property which is not his, he is not claiming that he is someone else nor is he claiming that he is authorised by someone else. Therefore, execution of such document (purporting to convey some property of which he is not the owner) is not execution of a false document as defined under Section 464 of the Code. If what is executed is not a false document, there is no forgery. If there is no forgery, then neither Section 467 nor Section 471 of the Code are attracted."

Likewise the offence of cheating is also not made out. Paragraph No.20 of the said decision reads as under:-

"20. When a sale deed is executed conveying a property claiming ownership thereto, it may be possible for the purchaser under such sale deed to allege that the vendor has cheated him by making a false representation of ownership and fraudulently induced him to part with the sale consideration. But in this case the complaint is not by the purchaser. On the other hand, the purchaser is made a co-accused."

4. Since the order passed by the learned trial Magistrate cannot be said to be improper or incorrect, I find no ground to



interfere. The Criminal Revision stands dismissed, accordingly. No costs.

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Sd/-

Assistant Registrar (CS II)

Sub Assistant Registrar (CS)

pmu

To

1. The District Munsif cum Judicial Magistrate,
Orathanadu, Thanjavur District.
 2. The Section Officer,
Criminal Section,
Madurai Bench of Madras High Court, Madurai. (2 COPIES)
- +1 CC to M/s.V.ILLANCHEZIAN, Advocate (SR-72965[F] dated 03/07/2019)

Crl. R.C. (MD) No. 720 of 2013
02.07.2019

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