



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 04.07.2019

CORAM:

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

Cr1.R.C. (MD) No.756 of 2013

WEB COPY

Sivasamy

.. Petitioner/Petitioner

Vs.

1. Kandasamy

2. Murugesan

3. Vennaikaran @ Subramanian

.. Respondents/Accused

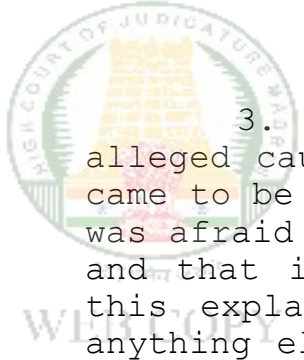
Prayer : This Criminal Revision petition is filed under Section 397 r/w 401 of Cr.P.C., to set aside the order of the learned Judicial Magistrate No.1, Karur, in C.M.P.No.5082 of 2012, dated 29.08.2013 and consequently allow the Revision.

For Petitioner : Mr.P.Athimoola Pandian

For Respondents : Mr.N.Shanmugaselvam

ORDER

The case of the Revision petitioner is that he entered into a sale agreement with one Palaniappan and received a sum of Rs.6 Lakhs as advance. While so, the first accused approached the petitioner on 10.06.2007 and agreed to purchase the very same property for a sum of Rs.98 Lakhs. He had paid Rs.10,000/- as advance. Later, Thiru.Palaniappan was paid Rs.6 Lakhs and the sale agreement between the petitioner and Palaniappan was cancelled. Thereafter, the sale deed dated 18.06.2007 was executed by the petitioner and his wife before the Sub Registrar. In the sale deed, only a sum of Rs.12,50,000/- was mentioned. It is not in dispute that the said amount was paid to the petitioner by the accused. The grievance of the petitioner is that the accused should still pay a sum of Rs.83,50,000/-. Alleging that as against the promise of paying a higher consideration, he was actually paid only a small portion of the said amount and the property has been grabbed, the petitioner came forward with the impugned complaint vide C.M.P.No.5082 of 2012 before the learned Judicial Magistrate No.I, Karur. The learned trial Magistrate, by Judgment dated 29.08.2013, dismissed the same. Challenging the said dismissal order, this Criminal Revision has been filed.



3. The learned trial Magistrate noted that even though the alleged cause of action took place in the year 2007, the complaint came to be filed in the year 2011. The petitioner had stated that he was afraid in view of the political influence wielded by the accused and that is why he could not file the complaint immediately. But this explanation was not accepted by the Court below. More than anything else, there was no material placed to the effect that the accused agreed to pay a sum of Rs.98 Lakhs as sale consideration. It is this aspect of the matter that made the Court below to come to the conclusion that there is no necessity to take cognizance and that there was no material to proceed further in the matter.

4. I am of the view that the learned trial Magistrate rightly dismissed the petitioner's complaint which was filed under Section 200 of Cr.P.C. I cannot help observing that the petitioner has also intended to cheat the Government of its legitimate tax dues. If really the land was worth Rs.98 Lakhs, the petitioner ought to have mentioned the said sale consideration in the sale deed. He did not do so. He mentioned only a sum of Rs.12,50,000/- as a sale consideration. It means that the balance amount was to have been taken by the petitioner as what is known as No.2 amount. If the case of the petitioner is accepted, this Court would be encouraging generation of black money.

5. The petitioner's conduct completely lacks *bona fides*. The order passed by the learned trial Magistrate does not warrant any interference. There is no merit in this Criminal Revision petition. The Criminal Revision stands dismissed. No costs.

Sd/-

Assistant Registrar

// True Copy //

Sub Assistant Registrar(CS)

To

1. The Judicial Magistrate No.1,
Karur.

Copy to: The Section Officer,
Criminal Section,
Madurai Bench of Madras High Court, Madurai.

+1 CC to Mr.P.ATHIMOOLAPANDIAN, Advocate SR-73577.

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