

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.08.2020

CORAM:

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

CrI.OP.No.3157 of 2015

1.Saravanan
2..Poonkuzhali

... Petitioners

.Vs.

R.Sathya

... Respondent

Prayer : Criminal Original Petition filed under Section 482 of Cr.P.C., to call for the records in CC.No.640 of 2012 on the file of the Court of the learned Judicial Magistrate No.VI, Coimbatore and quash the same.

For Petitioners : Mr.O.S.Thilak Pasumbadiar
(No appearance)

For Respondent : Mr.K.M.D.Muhilan

ORDER

(Heard through Video Conferencing)

The petitioners who are A1 and A2 in CC.No.640 of 2012 has filed this quash petition. The respondent herein who is the complainant had filed a private complaint against 11 persons for an offence under Sections 419, 420 and 506 (ii) IPC.

2. The prima facie contention of the petitioners is that there was a bare injunction suit in OS.No.1679 of 2008 between the petitioners and the respondent in which a compromise arrived. In view of the same, nothing survives in the criminal complaint and hence sought for quashing of the complaint.

3. The respondent submits that the respondent is the wife of Late Kathirvel, who passed away on 26.01.2005. The Late Kathirvel along with his brother Ravichandran and sister Kavitha inherited from a property of 8 cents and 344 sq.ft., in Coimbatore District. Forged Power of Attorney has been created as though Kathirvel executed the same on 27.07.2005 in favour of A1. Infact, Kathirvel passed away, after six months, on 04.01.2006, A1 sold the property to his wife A6. There was a

partition suit filed by the respondent in O.S.No.641 of 2007 before the II Additional Sub-Court, Coimbatore. The petitioner/A1 had filed a bare injunction suit in OS.No.1679 of 2008 before the Principal District Munsif Court, Coimbatore during the pendency of the suit. There was a compromise and as per the compromise, the respondent ought to have been paid Rs.4.5 Lakhs out of which only Rs.75,000/- was paid through cheque. The balance amount was not paid before the Principal District Munsif Court a compromise memo was filed in OS.No.1679 of 2008 dated 02.12.2011. Thereafter, when the compromise memo was filed in OS.No.641 of 2007, the learned Judge in the Lower Court was informed that the compromise amount of Rs.4,50,000/- have not been paid to the respondent. Hence the compromise was not recorded and kept pending. In the mean while, on 27.07.2018 when the respondent approached the Sub Court she was informed that the respondent was on leave. Thereafter, later she came to know that the respondent passed an order based on the compromise memo filed in OS.No.1679 of 2008. For the compromise memo under Order XXIII Rule 3 of CPC which was filed in OS.No.641 of 2007, no order has been passed and it is still pending. Thereafter, the petitioner had filed an appeal suit in AS.No.104 of 2018 which is pending before the Principal District Court, Coimbatore. In this background, he opposed the quash petition stating that the compromise recorded in OS.No.1679 of 2008 is only for bare injunction suit as regards the partition suit is still pending and the agreed amount has not been paid and hence, oppose this quash petition.

4. This Court on the submissions made by the petitioner and on perusal of the records, found that the Registered Power of Attorney Document No.315/05 was registered on 27.07.2005 before the SRO, Peelamedu, Coimbatore. This document is a forged document in collision with the other accused - A1. Admittedly, the said Kathirvel @ Kathiravan husband of the respondent died on 26.01.2005, based on this, forged power of attorney, a sale deed has been executed by A1 and A2 for which the above case is being proceeded. In view of the same, this Court is not inclined to entertain the petition, hence the Criminal Original Petition is dismissed. The Trial Court to proceed with the trial on a day to day basis and complete the trial within the stipulated period, since the CC is of the year 2012. No costs.

Sd/-

Assistant Registrar

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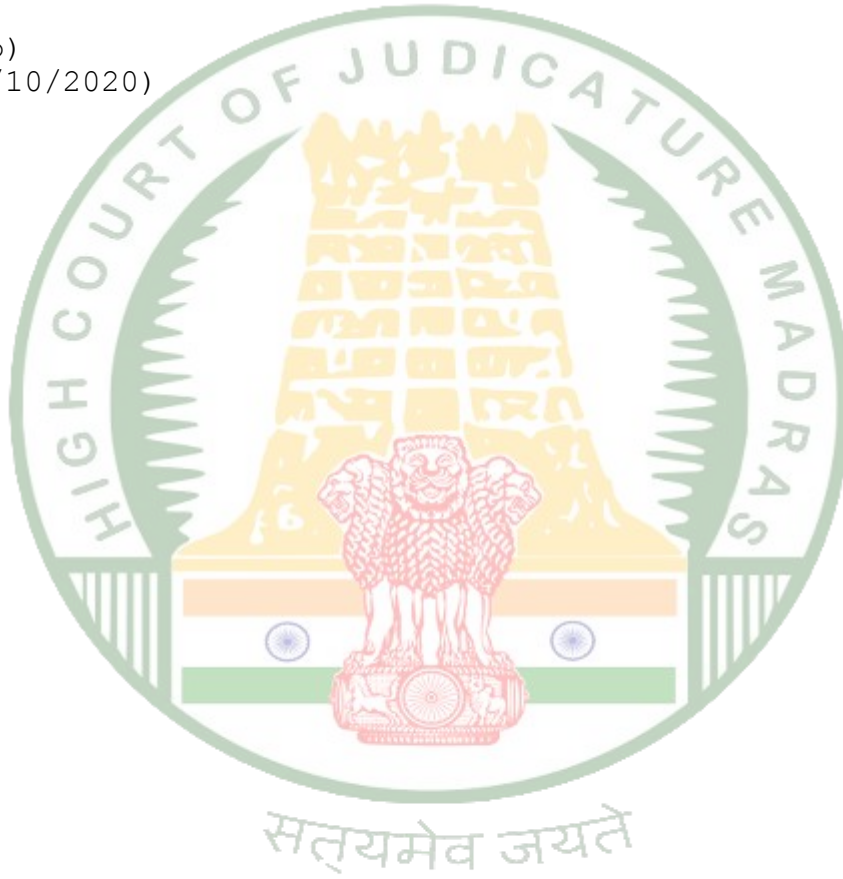
Sub Assistant Registrar

To

The Judicial Magistrate No.VI,
Coimbatore.

Cr1.OP.No.3157 of 2015

vsn ii (co)
rr ii (20/10/2020)



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