

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Date of Reservation	26.02.2020
Date of Judgment	24.06.2020

CORAM

THE HONOURABLE MRS. JUSTICE **T.KRISHNAVALLI**

Crl.RC(MD)No.87 of 2020

Tmt, .S.Jeyalakshmi : Petitioner/Complainant

Vs.

1.S.Subramanian
2.R.S.Manohar
3.Baskar
4.S.Swaminathan

: Respondents/Accused

Prayer: Criminal Revision filed under section 401 of the Criminal Procedure Code against the order of the Judicial Magistrate No.IV, Tiruchirappalli, in Cr.MP No.200762 of 2019, dated 30.12.2019.

For Petitioner : Mr.S.K.Mani

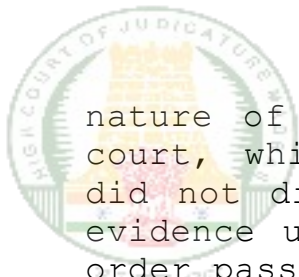
For Respondents : Mr.R.Gandhi

J U D G M E N T

This criminal revision is directed against the order of the Judicial Magistrate No.IV, Tiruchirappalli, in Cr.MP No.200762 of 2019, dated 30.12.2019.

2.The petitioner filed a petition under section 200 of Cr.P.C before the Judicial Magistrate No.IV, Tiruchirappalli, to take the complaint on cognizance and punish the accused for the offence under sections 120(b), 467, 468, 471 and 472 IPC. The learned Magistrate dismissed the petition on 30.12.2019 with liberty to file petition, after conclusion of the suit in O.S.No.874 of 2017 depending upon the circumstances arise in future. Aggrieved by the same, the petitioner is before this court.

3.The learned counsel appearing for the petitioner submitted that the only issue before the court was that the unregistered Will, dated 17.04.2006 was forged or not and the said question did not depend upon the decision to that effect by the civil court and the dismissal of the complaint by the lower court is absolutely premature and preventing the complainant from leading evidence under section 202 Cr.P.C relating to the forged



nature of the unregistered Will, dated 17.04.2006 and the lower court, while dismissing the complaint under section 203 Cr.P.C, did not discuss the lawful right of the complainant to lead the evidence under section 202 of Cr.P.C and prays that the impugned order passed by the trial court has to be set aside.

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4.Per contra, it is argued by the learned counsel appearing for the respondents that the lower court, after proper appreciation of the materials available on record, had passed the impugned order and prays for dismissal of the criminal revision.

5.Heard both sides and perused the materials available on record.

6.It is the main contention of the petitioner/complainant that two Wills, which are admitted by her are registered one and the 1st respondent propound Will is an unregistered one and if the court found that any one of the Will is forged one, it may direct the police to register a case or it may give a complaint to the court, which is having jurisdiction to try the forgery offence and prays for allowing the criminal revision by setting aside the impugned order.

7.It is seen from the impugned order, the lower court held that both the complainants and the 1st accused are in the same pedestal to prove their propounded Wills and therefore, no order could be passed at this stage since the matter is subjudice. Further, the lower court dismissed the petition filed by the complainant under section 203 of Cr.P.C by giving liberty to file a case after conclusion of the suit in O.S.No.874 of 2017 depending upon the circumstances arise in future. It is not a basic requisite to file a complaint of forgery that there should be a decision of the Civil Court to the effect that the said document was a forged one. Perusal of the impugned order reveals that the learned Judicial Magistrate, has dismissed the complaint filed by the complainant under section 203 Cr.P.C, without discussing the lawful right of the complainant to lead evidence under section 202 of Cr.P.C. The learned Magistrate, while dealing with the complaint filed by the complainant has to see that forgery as a criminal offence could be established lawfully by leading oral and documentary evidence before the court and the procedure could not be prevented or abrogated by asking the complainant to wait endless before the civil court for a finding whether the Will was genuine or a forged one.

8.In view of the above facts, this court is of the considered view that the matter has to be remitted back to the lower court for passing orders afresh purely on merits and in accordance with law.



9. In the result, this criminal revision is **allowed**. The order passed in Cr.MP No.200762 of 2019, dated 30.12.2019 by the learned Judicial Magistrate No.IV, Tiruchirappalli, is set aside. The case is remitted back to the trial court namely learned Judicial Magistrate No.IV, Tiruchirappalli and the trial court is directed to dispose of the Cr.MP No.200762 of 2019 afresh purely on merits and in accordance with law, after giving reasonable opportunity to the parties concerned, within a period of three months from the date of receipt of a copy of this order.

Sd/-

Assistant Registrar(Records)

// True Copy //

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Sub Assistant Registrar(CS)

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To,

1.The Judicial Magistrate No.IV,
Tiruchirappalli.

Crl.RC(MD)No.87 of 2020

24.06.2020

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