



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 01.10.2020

Delivered on : 30.11.2020

WEB COPY

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THE HONOURABLE MRS. JUSTICE R. THARANI

Crl. R.C.(MD)No.283 of 2019

and

Crl.M.P.(MD)No.4184 of 2019

Ravichandran

.. Petitioner

Vs.

State rep. by,
The Inspector of Police,
District Crime Branch,
Sivagangai District.
(Crime No.20 of 2011)

.. Respondent

Prayer : This Revision Case is filed under Sections 397 (1) read with Section 407 of Cr.P.C., to call for the records relating to Cr.M.P.No.5768 of 2014 in C.C.No.110 of 2014, dated 13.03.2018, pending on the file of the learned Judicial Magistrate No.II, Sivagangai and set aside the same and discharge the petitioner.

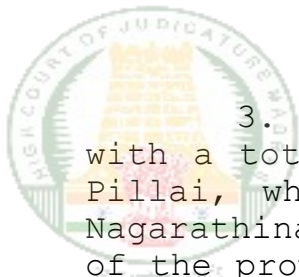
For Petitioner : Mr.J.Anandakumar

For Respondent : Mr.K.Dinseh Babu
Additional Public Prosecutor

ORDER

This revision has been filed to set aside the order passed in Cr.M.P.No.5768 of 2014 in C.C.No.110 of 2014, dated 13.03.2018, on the file of the learned Judicial Magistrate No.II, Sivagangai and to discharge the petitioner.

2. The revision petitioner herein was arrayed as accused No.4, in Crime No.20 of 2020 registered by the respondent. The petitioner filed a petition, in Crl.M.P.No.5768 of 2020, before the learned Judicial Magistrate No.II, Sivagangai, to discharge him from the charges. The learned Judicial Magistrate No.II, Sivagangai, dismissed the petition. Against which, the petitioner preferred this revision.



3. On the side of the petitioner, it is stated that a land with a total extend of 2 acres 31 cents belong to one Nagarathinam Pillai, who is the father of the defacto complainant. The said Nagarathinam Pillai kept 32 cents for himself and settled the rest of the properties in the name of his sons viz., defacto complainant and his brother Ammaiappan, by way of a settlement deed. Then, he gave 32 cents to his wife and daughter, by way of a Will, dated 14.12.1987. Subsequently, on 19.03.2009, Nagarathinam Pillai executed a settlement deed in respect of the said 32 cents in favour of the defacto complainant and his brother Ammaiappan. The defacto complainant and his brother Ammaiappan partitioned the properties and apportioned the land in to house sites. Accused No.1 / Meenambal, who is the daughter of Nagarathinam Pillai, who is aware of the settlement deed, in favour of the defacto complainant and her brother Ammaiappan, has executed a power of attorney, on 04.07.2011, in favour of her husband / Thirugnanasampanthan / A2. The allegation against this revision petitioner is that he is the master mind behind the creation of forged document and he induced A1 to A3 to commit the crime.

4. On the side of the revision petitioner, it is stated that on 25.01.2002, the defacto complainant sold some of the properties to the petitioner, by way of a registered sale deed. Subsequently, the defacto complainant created a partition deed, on 25.01.2008, with his brother / Ammaiappan. Based on that partition deed, he sold the properties, which were already sold to the revision petitioner to one Saravanan, Sanmuganathan, Pandiyan and Pugalendhi. For this incident, the revision petitioner lodged a complaint against the defacto complainant and the subsequent purchasers and a case in Crime No.187 of 2009 was registered before the Thiruppathur Town police station and the same was taken on file as C.C.No.109 of 2009 by the Judicial Magistrate, Thiruppathur. Only as a counter blast the name of the revision petitioner was impleaded in the case.

5. On the side of the revision petitioner, it is stated that absolutely there is no overtact against the petitioner. There is no allegation that the revision petitioner involved in the commission of offence either in the creation of the document or in the registration of the document. The petitioner is not a party to the document and he was not even a witness in those documents. The one and only allegation against the petitioner is that he is the master mind behind the creation of forged document and that the revision petitioner induced A1 to A3 to the commit the offence. The name of the revision petitioner does not found place in the FIR. There is no materials available against the revision petitioner. The trial Court failed to consider the case of the revision petitioner. The trial Court failed to discuss anything regarding the previous enmity between the petitioner and the defacto complainant.

6. On the side of the prosecution, it is stated that A1 is the defacto complainant. She executed a power deed in



favour of her husband / A2. On the strength of the power deed, A2 sold the property to A3, whereas the property belong to the defacto complainant. A4 / revision petitioner induced A1 to A3 to commit the offence and he is the master mind behind the offence. It is stated that the involvement of the petitioner, in the commission of the offence, can be decided only after the completion of the trial. Pendency of a case, against the defacto complainant, filed by the revision petitioner, cannot be a ground for a discharge in the revision petition. The petitioner is not a party to the documents or a witness to the documents, but, the allegation against the petitioner is that he induced A1 to A3, to create the documents which cannot be proved through the documents. If the petitioner is discharged, prejudice would be caused to the prosecution. The trial Court has rightly appreciated the FIR, final report and has dismissed the petition and prayed the revision petition to be dismissed.

7. A perusal of the records reveals that there is a case pending against the defacto complainant in C.C.No.109 of 2009, before the Judicial Magistrate, Thiruppathur and the revision petitioner is the defacto complainant in that case. It is seen that the revision petitioner is not a party to the alleged forged document. The revision petitioner is not a witness in that document. The one and only offence alleged against the revision petitioner is that he is the master mind for the commission of the offence and he induced A1 to A3 in the commission of the offence. In the statements, recorded under Section 161 of Cr.P.C, of one Ibrahimsha and in the statement of Ponnalagu, it is stated that only with the help of the revision petitioner, A1 to A3 created the impugned document. Except this vague allegation, there is no specific overtact against the revision petitioner.

8. In the above circumstances, the reasons stated in the petition are satisfactory. The order of the learned Judicial Magistrate No.II, Sivagangai, Cr.M.P.No.5768 of 2014, in C.C.No.110 of 2014, dated 13.03.2018, is hereby is set aside and the petitioner is discharged from the charges alleged against him. Accordingly, this Criminal Revision Case is allowed. Consequently, connected Miscellaneous Petition is closed.

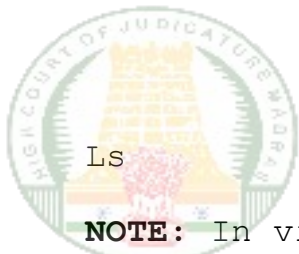
Sd/-

Assistant Registrar (CO)

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Sub Assistant Registrar(CS)



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NOTE: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

- 1.The Judicial Magistrate No.II,
Sivagangai
2. The Inspector of Police,
District Crime Branch,
Sivagangai District.
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

order made in
Crl. R.C.(MD)No.283 of 2019

30.11.2020

VR (CO)

NR (11/12/2020) 4P : 4C