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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.08.2021

Coram:

THE HONOURABLE MR. JUSTICE P.VELMURUGAN

Criminal Revision Case No.100 of 2021

T.Senthilkumar

.. Petitioner / Petitioner

Vs.

1. Karikalan

2. R.Ramasamy

3. T.Vivekanandan

4.P.Subramanian

... Respondents / Respondents

Prayer : Criminal Revision filed under Section 397 read with 401 of Criminal Procedure Code, praying to set aside the order dated 05.11.2020 passed in C.M.P.No.4592 of 2019 on the file of the Judicial Magistrate Court No.III, Coimbatore.

For Petitioner : Mr.K.Govi Ganesan

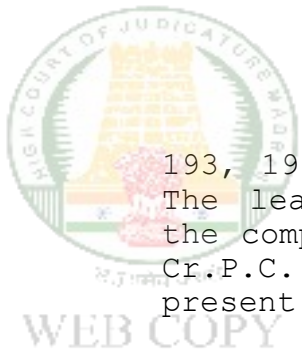
For Respondent-1 : Mr.J.Vijaya Raghavan

For Respondents-2 & 3 : M/s.Venkatasamy
Mr. R.Sivamurali
: Notice served on R4

ORDER

This Criminal Revision has been filed by the petitioner seeking to set aside the order dated 05.11.2020 in C.M.P.No.4592 of 2019 passed by the learned Judicial Magistrate Court No.III, Coimbatore.

2. The petitioner filed a private complaint under Section 200 Cr.P.C. before the learned Judicial Magistrate-III, Coimbatore, seeking to register FIR against the respondents 1 to 4 for the offences punishable under Sections 34, 120, 191, 192,



193, 196, 197, 198, 463, 464, 465, 467, 468, 472, 474, 475 IPC. The learned Magistrate after hearing the arguments, dismissed the complaint filed under Section 200 Cr.P.C., under Section 203 Cr.P.C. Challenging the said order, the petitioner has filed the present revision before this court.

3. The learned Counsel for the petitioner would submit that the Magistrate dismissed the private complaint filed by the petitioner under Section 200 Cr.P.C. based on the sole ground under Section 13 of Notaries Act. It has been stated that the petitioner who is a third party has given the complaint against a Notary and unless, the complaint in writing is made by an officer authorised by the Central Government or State Government by a general or special order, the Criminal Court is forbidden from taking cognizance of the same. But in any event, the Notary cannot be authorised to involve in any criminal cases. Therefore, the finding of the learned Magistrate is perverse and if the Investigating Agency registers the case and investigate the matter, the truth will come out and the Criminal Act committed by the respondents will also come out.

4. Heard the learned Counsel for the petitioner and the learned Counsels for the respondents 1 to 3.

5. Admittedly, the petitioner filed a complaint before C2 Race Course Police Station and subsequently, he filed a private complaint before the learned Judicial Magistrate-III, Coimbatore, under Section 200 Cr.P.C. against the respondents 1 to 4 and the same was dismissed by the learned Magistrate by order dated 05.11.2020. Challenging the same, the present revision has been filed before this Court. The main allegation is that the alleged Will was a forged one. Admittedly, a civil dispute is pending before the Sub Court, Coimbatore in O.S.No.529 of 2007 and the first appeal was dismissed by the District Court in A.S.No.82 of 2013. Against which, now the second appeal has been filed and it is pending before this Court. Till date, it is not declared whether the disputed Will is a forged one or genuine. Unless the competent Court declares that the Will is forged or genuine, there is no cause of action to file the complaint against the respondents on the allegation of forgery of Will.

6. Therefore, there is no perversity or illegality in the order passed by the learned Magistrate. However, the petitioner is at liberty to file a complaint, in case if the competent Civil Court declares that the said Will is a forged one.



7. With the above observations, this Criminal Revision case is dismissed.

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Sd/-
Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

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To

1. Judicial Magistrate Court No.III, Coimbatore
2. The Subordinate Judge,
Coimbatore
3. The Section Officer, Criminal Section, High Court, Madras.

1CC to Mr.K.Govi Ganesan, Advocate, Sr.No.37489
+2CCs to Mr.T.Vijaya Raghavan, Advocate, Sr.No.37462
+1CC to Mr.V.Venkkatasamy, Advocate, Sr.No.37505

Criminal Revision Case No.100 of 2021

ST (CO)
K.RK. (24.08.2021)