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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.09.2021

CORAM:

THE HONOURABLE MR.JUSTICE RMT.TEEKAA RAMAN

Cr1.R.C.No.223 of 2018

M.Devendaran .. Petitioner/Defacto complainant

Vs.

The State represented by,
The Sub Inspector of Police,
District Crime Branch,
Kanchipuram District.
Crime No.56 of 2014

... Respondent/Complainant

PRAYER: This Criminal Revision Case has been filed under Section 397 and 401 of Cr.P.C., to set aside the order of the learned Judicial Magistrate No.2, Chengalpet, in CMP.No.3431 of 2017, dated 28.11.2017.

For Petitioner : Mr.A.Suresh

For Respondent : Mr.R.Vinoth Raja
Government Advocate

O R D E R

The defacto complainant is the revision petitioner herein.

2.The defacto complainant has filed a complaint before the respondent police by alleging the forcible execution of the documents and the same was registered as a case in Crime No. 56 of 2014, on the file of the respondent police. After investigation, the respondent police have filed FRCS No.2 of 2016 for committing alleged offence and it was closed by stating that "Mistake of Fact" and hence, the defacto complainant has filed a protest petition in CMP.No.3431 of 2017 before the learned Judicial Magistrate No.2, Chengalpet. After consideration of the



facts and circumstances, the learned Judge had rejected the protest petition and accepted the negative report filed in FRCS No.2 of 2016 and hence, the defacto complainant has preferred the present Criminal Revision Case before this Court.

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3.The case of the defacto complainant is that the General Power Document No.32 of 2017 dated 03.01.2007 in favour of Thomas S/o.Samuvel is not given for S.No.340/6 measuring a total extent of 50 cents and the revision petitioner herein is the only person authorized to deal with S.No.340/6 and 340/3C. Further, the said Thomas S/o.Samuvel was appointed as power agent only for the land comprised in S.No.339/1, 340/1D, 340/1E, 340/2B, 340/5A, 340/5B and 340/5C measuring an extent of 2.47 acres and clearly knowing the fact the accused namely Thomas had sold the property in S.No.340/6 and the same was not informed to the revision petitioner herein. It is submitted that at the time of execution of the power of attorney deed in favour of Thomas S/o.Samuvel, the Patta for the land comprised in S.No.340/6 and 340/3C was not in favour of the revision petitioner herein and after clearance of the title deeds and patta for S.No.340/6 and 340/3C the revision petitioner herein had made settlement deed in favour of his wife viz., Rajeswari, in document No.2344/2007, dated 05.04.2007 for the S.No.340/6 and 340/3C and without knowing the fact that the revision petitioner herein had made the settlement deed and the accused persons had played fraud by selling the property in S.No.340/6 and latterly the accused persons had threatened and kidnapped the revision petitioner herein to cancel the settlement deed which is in favour of one Rajeswari, who is the wife of the revision petitioner herein.

4.Heard both the learned counsels and perused the materials placed on record.

5.The learned counsel for the revision petitioner would submit that the Lower Court had in a error manner passed the order based on the evidence given by the Sub-Registrar, Madhuranthagam and witness of the cancellation of settlement deed and also failed to consider the fact that the evidence is given only before the Investigation Officer but not before the concerned Court of law.

6.After going through the arguments and the documents filed by the private complainant, it is seen that the cause of action for the case arises in the year 2007. The accused had purchased the property by a sale deed dated 02.03.2007 and



thereafter sold the property to other persons and registered the documents and that, the revision petitioner had not taken any civil action from the year 2007. Thereafter, when the sale deed in favour of the alleged accused is in force, the revision petitioner executed settlement deed in favour of his wife on 05.04.2007, which appears to be illegal. After two years, the revision petitioner himself had cancelled the settlement deed executed in favour his wife. The Investigating Officer has recorded the statement of the Sub Registrar of Madhuranthagam and one Dhanasekar has also given a statement that the gift settlement deed executed by the defacto complainant was cancelled between 2 and 3 p.m., and the same was presented for registration. But one Ramesh, who is the attester of the said cancellation document, has stated that the defacto complainant viz., Devendaran and his wife viz., Rajeswari were kidnapped around 2.30 pm from Chengalpattu to Chennai, by a Car and thereafter, Rajeswari was taken to the Sub Registrar Office, Madhurantagam and thereafter, the signature were obtained from the defacto complainant and the father of the defacto complainant.

7.Taking into consideration the statement given by the Sub-Registrar of the Madhuranthagam Sub-Registrar Office, the Trial Court has rendered a finding that the allegation made by the complainant is appear to be more doubtful. Furthermore, the allegation made in the said complaint was made after two years of the alleged incident, which strengthen the suspicion. The sale deed in favour of the accused was executed in the year 2007, while the same was in force, the defacto complainant has settled the property on 05.04.2007 by way of sale deed in the name of his wife. Two years thereafter, he has cancelled the settlement deed, which was executed in favour of his wife and two years thereafter the present complaint has been filed. In other words, sale deed in favour of the accused was in the year 2007 and in the year 2009 the settlement executed by the defacto complainant in favour of his wife was cancelled. The allegation is that the cancellation of the settlement deed was committed in coercion by kidnapping the family of the defacto complainant. After giving complaint in the year 2011, there was a compromise entered between the parties and based upon the compromise further proceedings were stopped. Again in the year 2014, another complaint was given for the same incident and hence, the Investigating Officer has closed the case as mistake of fact and



accordingly filed negative report. Since the negative report is based upon the factual position, regarding the sale deed in the year 2007; settlement deed in the year 2007; cancellation of the settlement deed on 11.09.2011; complaint on 10.11.2011 and subsequently, compromise took place between the parties and again another complaint was given. The learned Judicial Magistrate has stated that negative report is acceptable and accordingly accepted the negative report in the referred charge sheet and dismissed the protest petition.

8.The contention of the learned counsel for the revision petitioner is that the statement given by the Sub-Registrar before the Investigating Officer cannot be relied upon.

9.Based on the statement of the Registrar of the Sub Registration Office of Madhuranthagam for discharging of his official duty, this Court does not find any error in the order passed by the learned Judicial Magistrate. The contentions made by the learned counsel for the revision petitioner stands negatived.

10.Accordingly, this Criminal Revision Case stands dismissed. The order passed by the learned Judicial Magistrate No.2, Chengalpet, in CMP.No.3431 of 2017, dated 28.11.2017, is hereby confirmed.

Sd/-

Assistant Registrar(CS-III)

//True Copy//

Sub Assistant Registrar

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To

- 1.The Sub Inspector of Police,
District Crime Branch, Kanchipuram District.
- 2.The Judicial Magistrate No.2, Chengalpet.
- 3.The Public Prosecutor, High Court, Madras.

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VBM(CO)
SB(01/10/2021)