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IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 01.10.2021
PRONOUNCED ON : 05.10.2021

CORAM :

THE HONOURABLE MR.JUSTICE RMT.TEEKAA RAMAN

CRL.R.C.NOS.765 & 766 OF 2017
AND
CRL.M.P.NOS.7036 & 7037 OF 2017

in Cr1.R.C.No.765 of 2017

N.S.Rizwan ...Petitioner / Defacto Complainant
Vs.

1.Manivannan

2.Chinnasamy ...Respondents / Accused A3 & A4

3.K.Tamilarasan

4.D.S.Irfan ...Respondents / Accused A2 & A1

5.The Inspector of Police,
B1, Dharmapuri Town Police Station,
Dharmapuri. ...Respondent / Complainant

in Cr1.R.C.No.766 of 2017

N.S.Rizwan ...Petitioner / Defacto Complainant
Vs.

1.K.Tamilarasan ...Respondents / A4

2.Manivannan

3.Chinnasamy ...Respondents / A2 & A3



4.D.S.Irfan

...Respondents / A1

5.The Inspector of Police,
B1, Dharmapuri Town Police Station,
Dharmapuri.

...Respondent / Complainant

COMMON PRAYER : These Criminal Revision Cases have been filed under Section 397 & 401 of Cr.P.C., against the order passed in CrI.M.P.Nos.3001 & 3000 of 2014 in C.C.No.51 of 2013 on the file of the learned Judicial Magistrate No.I, Dharmapuri, dated 24.03.2007.

in CrI.R.C.No.765 of 2017:

For Petitioner	:	Mr.K.M.Mohamed Ziauddin for Mr.S.M.Hameed Mohideen
For R1	:	Mr.G.Jeremiah
For R2, R3 & R4	:	No appearance
For R5	:	Mr.S.Vinoth Kumar Public Prosecutor

in CrI.R.C.No.766 of 2017:

For Petitioner	:	Mr.K.M.Mohamed Ziauddin for Mr.S.M.Hameed Mohideen
For R3	:	Mr.G.Jeremiah
For R1, R2 & R4	:	No appearance
For R5	:	Mr.S.Vinoth Kumar Public Prosecutor

COMMON ORDER

(The case has been heard through Video Conference)

These revision petitions have been filed challenging the order passed in discharge petitions filed in CrI.M.P.Nos.3001 & 3000 of 2014 in C.C.No.51 of 2013, by the learned Judicial Magistrate No.I, Dharmapuri, dated 24.03.2007.



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2.Crl.M.P.No.3001 of 2014 has been filed to discharge A3 & A4 and Crl.M.P.No.3000 of 2014 has been filed by the A4, before the learned Judicial Magistrate No.1, Dharmapuri. By an order dated 24.03.2007, the learned Judicial Magistrate has allowed both the discharge petitions and hence, present Criminal Revision Cases have been filed by the defacto complainant before this Court.

3.Heard Mr.K.M.Mohamed Ziauddin, learned counsel for Mr.S.M.Hameed Mohideen, learned counsel for the revision petitioner in both cases and Mr.G.Jeremiah, learned counsel for the first respondent in Crl.R.C.No.765 of 2017 & third respondent in Crl.R.C.No.766 of 2017. Since, the remaining parties are not represented by the respective counsels, their names have been printed in the cause list.

4.Admittedly in Crl.M.P.No.3001 of 2014 relating to Crl.R.C.No.765 of 2017, the contesting respondents are the revenue officials.

5.The learned counsel for the revision petitioner would submit that in the family partition, the property was allotted to the defacto complainant and Patta stands in his name. The accused/A1, who is none other than the elder brother of the defacto complainant has induced A2 and A3, who are the revenue officials viz., Village Administrative Officer and the Assistant in the K.Naduhalli, Taluk Office, to evade the institution of the name in the revenue records and obtained Patta in his name. Accordingly, in view of the change in Patta, the first accused had sold the property to the fourth accused. Aggrieved against the same, the fourth accused has also filed Civil Suit and the same is pending before the Trial Court.

6.Mr.G.Jeremiah, learned counsel appearing for the first respondent in Crl.R.C.No.765/2017 and third respondent in Crl.R.C.No.766 of 2017, would contend that there is no material by the prosecution to connect the accused with the alleged crime, he is an innocent bonafide purchaser, he ought to have filed petition under Section 417 IPC against A1 and A3. Unfortunately, he has been incorporated as an accused, in the age of 34 years. In the absence of any positive material to connect, he was cause for the creation of false document. The trial Court has rightly discharged him.



7.The learned Magistrate has observed that LW13/Tahsildar has categorically gave a statement before the Investigating Officer that no order for transfer of Patta was effected and the alleged action of the accused viz., A2 & A3 to change the Patta at the Village Register is not supported by any Patta transfer order by the Competent Authority viz., Tahsildhar.

8.In view of specific material available in the form of the statement of LW13/Tahsildhar, the competent witness to speak about the public document, the Trial Court had erred in discharging A2 & A3 and hence, this Court finds that there is a sufficient material to presume A2 & A3, who are the revenue officials, that without any order from the competent authority to effect mutation of name on revenue records viz., Chitta and Patta, they have effected the patta in connivance with A1 and hence, the order passed by the learned Judicial Magistrate No.I, Dharmapuri, in CrI.M.P.No.3001 of 2014 is liable to be set aside and A2 & A3 are ordered to be re-arrayed in C.C.No.51 of 2013 as A3 and A4 and to face the trial.

9.Further, Mr.G.Jeremiah, learned counsel for the first respondent in CrI.R.C.No.765 of 2017 and third respondent in CrI.R.C.No.766 of 2017, would contend that based upon the document produced by the first accused from the village records, A1 as the pattadhar, the fourth accused had purchased the property and believing the representation and believing the document given by A2 & A3 (revenue witnesses), A4 has purchased the property. Hence, this Court finds that A4 is only a bonafide purchaser for valuable consideration and hence, in the absence of any positive material to show A4 also had role in getting the documents and in the absence of any positive material to show any nexus to A4 had with the document, this Court finds that the order passed by the learned Magistrate is well considered and well merited, does not warrant any interference. Accordingly CrI.R.C.No.766 of 2017 is dismissed and the order of discharge of A4 by the learned Judicial Magistrate No.I, Dharmapuri, passed in CrI.M.P.No.3000 of 2014 is hereby confirmed.

10.In the result:

(i) CrI.R.C.No.765 of 2017 is allowed and the order passed by the learned Judicial Magistrate No.I, Dharmapuri, in CrI.M.P.No.3001 of 2014 is set aside and A2 & A3 are ordered to



be re-arrayed in C.C.No.51 of 2013 and to face the trial.

(ii) CrI.R.C.No.766 of 2017 is dismissed and the order passed by the learned Judicial Magistrate No.I, Dharmapuri, in CrI.M.P.No.3000 of 2014 is hereby confirmed.

(iii) Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-VIII)

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Sub Assistant Registrar

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To :

1.The Judicial Magistrate No.I,
Dharmapuri.

2.The Inspector of Police,
B1, Dharmapuri Town Police Station,
Dharmapuri.

CrI.R.C.Nos.765 & 766 of 2017
and CrI.M.P.Nos.7036 & 7037 of 2017

SR-II(CO)
RVM(10/11/2021)