



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 29.03.2021

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THE HONOURABLE MRS. JUSTICE R. THARANI

Crl. R.C.(MD)No.226 of 2021

and

Crl.M.P.(MD)Nos.2355 & 2357 of 2021

1.Viswalakshmi

2.Nandakumar

.. Petitioners

Vs.

The Inspector of Police,
City Crime Branch,
Tirunelveli District
Cr No. 16/2013.

(Respondent Cause Title Amended as per order in Crl.M.P.(MD)No.2741
of 2021, dated 29.03.2021.) .. Respondent

Prayer : This Revision Case is filed under Sections 397 and 401 of Cr.P.C., to call for the records and to set aside the order, dated 05.03.2021 passed in Crl.M.P.No.1545 of 2021 in C.C.No.209 of 2015 on the file of the Judicial Magistrate No.I, Tirunelveli and to allow this Criminal Revision.

For Petitioners : Mr.G.Prabhu Rajadurai

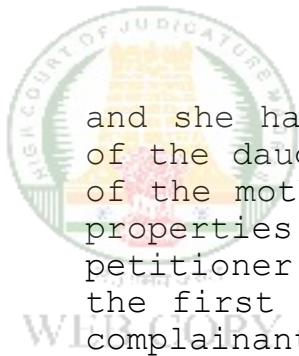
For Respondent : Mrs.S.Bharathi
Government Advocate (crl.side)

ORDER

This petition is filed to set aside the order, dated 05.03.2021 passed in Crl.M.P.No.1545 of 2021 in C.C.No.209 of 2015 on the file of the Judicial Magistrate No.I, Tirunelveli.

2.The case against the petitioners was registered by the respondent police in crime No.16 of 2013 and the same was taken on file as C.C.No.209 of 2015. The petitioners filed a petition in Crl.M.P.No.1545 of 2021 for discharging them from the charges. That petition was dismissed by the Judicial Magistrate No.I, Tirunelveli. Against the same, the petitioner filed this Criminal Revision.

3.On the side of the revision petitioners, it is stated that the properties in Suvery Nos.26/2 and 26/3, belong to one Subbulakshmiammal, who was the grandmother of the first petitioner

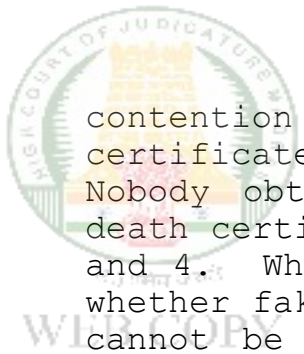


and she had three daughters. The first petitioner's mother is one of the daughters. Subbulakshmi executed a settlement deed in favour of the mother of the first petitioner with regard to the above said properties. The defacto complainant is the cousin of the first petitioner. He executed a sale deed in favour of a third party and the first petitioner lodged a complaint. Subsequently, the defacto complainant in this case, has cancelled the sale deeds. The first petitioner filed a civil suit against the defacto complainant and she obtained a decree in her favour. In the civil suit, the defacto complainant has taken a stand that the mother of the first petitioner executed a power deed in his favour, but, no such document was filed before the Civil Court. The defacto complainant also filed a civil case against the first petitioner and that case was dismissed.

4.The first petitioner filed a petition to transfer patta in her name. A3 and A4 gave the death certificate to the petitioners and they used the death certificate for transferring the patta in the name of the petitioner. Admittedly, the property belonged to the petitioners. Already this Court has discharged A4 from the charges. Rajasekar, one of the witnesses, has given a statement that the third and fourth accused handed over the death certificates to him and he handed over the death certificates to the first and second accused. There was no intention to commit any fraud. There is no appeal against the judgment of the civil Court. Both the petitioners are aged about 60 years and prayed their appearance to be dispensed with. There is no injury caused, to anybody and there is no loss to the defacto complainant and the ingredients of Section 463 I.P.C is not made out and prayed the petitioners to be discharged from all the offences.

5.On the side of the respondent, it is stated that totally, four accused were involved in the case. The case was registered under Sections 120B, 465, 466, 468 and 471 I.P.C. and was taken on file as C.C.No.209 of 2015. The third accused, who is the father of the petitioner passed away and the fourth accused, who is the brother of the petitioner, filed a quash petition in Crl.O.P.(MD) No.3237 of 2016 before this Court and the case against A4 was quashed by this Court, but, the case against the other accused persons was directed to be disposed of as expeditiously as possible. Two death certificates are produced by the petitioners. In one of the death certificate, the date of death is mentioned as 16.08.1989 and in another death certificate, the date of death is mentioned as 03.05.1989. Using fabricated death certificates for patta transfer is the allegation against the petitioners. Unless witnesses are examined, fabrication of the documents cannot be decided and prayed the petition to be dismissed.

6.The allegation against the petitioners is with regard to the presentation of the fake death certificate before the Revenue Authorities for getting patta transferred in his name. The



contention of the petitioners is that the date of death in the fake certificate is 16.08.1989 and original date of death is 03.05.1989. Nobody obtained any profit within the particular period and the death certificate was handed over to the petitioner by accused Nos.3 and 4. Whether the forged documents were created by A3 and A4 and whether fake document was handed over to the petitioner by A3 and A4 cannot be decided in this petition. The validity of the death certificate and the person, who created a forged document, has to be found out, for which, a detail enquiry is necessary.

7.In the above circumstances, there is nothing sufficient enough to interfere in the order of the trial Court. Hence, this Criminal Revision Case is dismissed. Considering the age of the revision petitioners, Crl.M.P.(MD)No.2357 of 2021 is allowed and the personal appearance of the revision petitioners, is dispensed with, on condition that the revision petitioners are to be represented by a counsel under Section 205 Cr.P.C. and on further condition that the personal appearance of the revision petitioners should be there as and when the same is insisted by the trial Court. Consequently, Crl.M.P.(MD)No.2355 of 2021 is closed.

Sd/-

Assistant Registrar (AS)

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/ /2021

Sub Assistant Registrar(CS)

Ls

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.I,
Tirunelveli.

2. The Chief Judicial Magistrate,
Tirunelveli.

3.The Inspector of Police,
District Crime Branch,
Tirunelveli District



4. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to M/s.G.PRABHU RAJADURAI, Advocate (SR-14438[F] dated
30/03/2021)

Crl. R.C.(MD)No.226 of 2021

29.03.2021

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