



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 19.08.2021

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THE HONOURABLE MRS. JUSTICE **T.KRISHNAVALLI**

Crl.RC(MD)No.465 of 2021

and

Crl.MP(MD)No.4933 of 2021

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Tmt.V.Janaki : Petitioner/De-facto Complainant
Vs.

1.The State Rep .
By the Inspector of Police,
Anti Land Grabbing Special Cell,
Theni District, Theni. : 1st Respondent/Complainant
(Crime No.35/2018)

2.Gandhi

3.Ponnusamy @ Selvam

4.Marimuthu

5.Arivuselvam : R2 to R5/Respondents/A1 to A4

Prayer: Criminal Revision filed under sections 397 and 401 of the Code of the Criminal Procedure against the order passed in RCS No.5 of 2019 dated 24.08.2020 by the Judicial Magistrate, Special Court for Land Grabbing Cases, Theni and set aside the same.

For Petitioner : Mr.D.Shanmugaraja Sethupathi

For 1st Respondent : Mr.RMS.Sethuraman
Standing Counsel for State
(Crl. Side)

For R2 to R5 : Mr.A.Rajaram

O R D E R

This Criminal Revision is directed against the order passed in RCS No.5 of 2019, dated 24.08.2020 by the Judicial Magistrate, Special Court for Land Grabbing Cases, Theni.

2.It reveals from the records that on the complaint given by the petitioner/de-facto complainant, dated 22.08.2018, the 1st respondent police has registered a case in Crime No.35 of 2018 against the respondents 2 to 5 for the offence under sections 465, 468 and 471 IPC. After investigation, the 1st respondent has filed a final report on 20.02.2015 as "Further Action Dropped." On



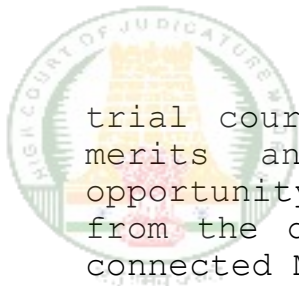
06.03.2019, the petitioner was issued notice by the Judicial Magistrate. On receipt of the notice, the petitioner filed Vakalat through her counsel. In the meantime, the respondents 2 to 5 have filed Crl.OP(MD) No.1125 of 2020 before this court seeking for a direction to the trial court to dispose the case in RCS No.5 of 2019 pending before the Judicial Magistrate, Special Court for Land Grabbing Case, Theni. Though the petitioner was impleaded as 3rd respondent in the above Criminal Original Petition, the petitioner has not received any notice from the court. However, On 24.01.2020, the above Criminal Original Petition was disposed of directing the learned Magistrate to dispose the final report in Crime No.35 of 2019 (RCS No.5/2019) within a period 3 months. Thereafter, on 24.08.2020, the learned Judicial Magistrate, Special Court for Land Grabbing Cases, Theni, closed the case in RCS No. 5 of 2019, on 24.08.2020. Challenging the said order, petitioner is before this court.

3.Heard both sides and perused the materials available on record.

4.Even though so many ground were raised in the grounds of revision, it is mainly contended by the learned counsel appearing for the petitioner that the trial court ought to have given opportunity to the petitioner to file protection petition before accepting the final report and the trial court passed the impugned order during the lock-down period without further notice to the petitioner and prays that the impugned order passed by the trial court has to be set aside, by allowing the criminal revision.

5.It is seen from the records that though the final report was dated 20.02.2015, the petitioner was issued notice only on 06.03.2019 after a lapse of 4 years from the date of final report. It is also seen from the records that since there was no Presiding Officer in the Regular Court, the case had been called before the In-Charge Court and periodically adjourned without any progress. The petitioner had been appearing before the trial court till 23.03.2020. However, the learned Judicial Magistrate without issuing any further notice during the Pandemic period, has passed the impugned order accepting the final report without hearing the petitioner and without giving opportunity to her. Further, the learned Magistrate without considering the final report filed by the 1st respondent on merit and without appreciating the evidence available on record, has simply accepted the final report. Hence, the impugned order passed by the learned Magistrate is liable to be set aside and the case is remitted back to the Magistrate for passing orders afresh.

6.In the result, this Criminal Revision is allowed. The impugned order, dated 24.08.2020 passed in RCS No.5 of 2019 by the Judicial Magistrate, Special Court for Land Grabbing Cases, Theni, is set aside and the case is remitted back to the trial court and the



trial court is directed to dispose of the case, afresh purely on merits and in accordance with law after giving reasonable opportunity to the parties concerned, within a period of four weeks from the date of receipt of a copy of this order. Consequently, connected Miscellaneous Petition is closed.

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Sd/-

Assistant Registrar (CS-I)

// True Copy //

/ /2021

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 (FAC),
Special Court for Land Grabbing Cases,
Theni.
- 2.The Inspector of Police,
Anti Land Grabbing Special Cell,
Theni District.
- 3.The Additional Public Prosector,
Maduri Bench of Madras High Court,
Madurai.

+1 CC to M/s.M.RAJARAM, Advocate (SR-26869[F] dated 19/08/2021)

CrI.RC(MD)No.465 of 2021

19.08.2021

RK (15.09.2021) 3P 5C