



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 01.12.2021

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THE HONOURABLE MRS. JUSTICE R. THARANI

Crl. R.C.(MD)No.426 of 2020

S.Palanivelu .. Petitioner/Complainant

Vs.

S.Balamurugan .. Respondent/Accused

Prayer : This Revision Case is filed under Section 397 r/w. Section 401 of Cr.P.C., against the order, dated 25.02.2020, made in Crl.M.P.No.83 of 2019 by the Judicial Magistrate No.II, Thanjavur, dismissing the complaint filed under Section 200 Cr.P.C.

For Petitioner : Mr.Y.Krishnan

For Respondents : Mr.A.Senthil Kumar

ORDER

This Criminal Revision has been filed against the order, dated 25.02.2020, made in Crl.M.P.No.83 of 2019 by the Judicial Magistrate No.II, Thanjavur.

2.The revision petitioner filed a private complaint before Judicial Magistrate No.II, Thanjavur, in Crl.M.P.No.83 of 2019. That petition was dismissed by the trial Court. Against the same, the petitioner has approached this Court by way of this Revision.

3. On the side of the revision petitioner, it is stated that the respondent forged a document, as if the father has executed a consent deed, entrusting certain properties to the respondent. A suit was filed before the District Munsif, Thanjavur, in O.S.No.247 of 2013. The petitioner filed a petition in I.A.No.61 of 2016, under Section 340 Cr.P.C., to take action against the respondent. That petition was dismissed by the District Munsif, with liberty to file a private complaint. On the direction of the District Munsif, the petitioner moved a private complaint before the Judicial Magistrate No.II, Thanjavur and the petitioner filed 10 documents. Without considering the documents, the trial Court has dismissed the petition. Pendency of the original suit is not a bar for taking cognizance of an offence under Section 200 Cr.P.C. and prayed the revision to be allowed.



4. On the side of the revision respondent, it is stated that the petitioner and the respondent are brothers. They are having one more brother and two sisters. Except the respondent, all the other brother and sisters got married. The father had obtained various loans and he has executed a consent deed, wherein, he entrusted certain properties to the petitioner and permitted the petitioner to sell the properties and to settle the loan amount and to share the balance equally with the other legal representatives. A suit for bare injunction was filed by the respondent. The petitioner has not filed any petition for verifying the document by an Expert. He filed a petition before the District Munsif, to prepare a complaint through the Court staff and to forward the same to the police for investigation. That petition was dismissed by the District Munsif. The petitioner has filed a complaint before the police and the same was dismissed by the police. The father obtained a loan by depositing the title deeds and the revision petitioner has also signed the loan documents. The other brother and sisters were not examined as witnesses. The revision petitioner has examined some third parties. The revision petitioner has failed to prove that there is *prima facie* case made out against the respondent and prayed the petition to be dismissed.

5. On the side of the revision petitioner, by way of reply, it is stated that the stamp papers bearing the alleged consent deed was executed itself is not original. The stamp papers are not genuine. Unless a criminal case is taken on file, the documents cannot be sent for verification by handwriting expert. The stamp papers were sold to one Kannan, by a stamp vendor, by name, Abdul Vahab in Pattukkottai. The petitioner created stamp paper himself and he fabricated the signature of Sankaramoorthy. In the alleged consent deed it was mentioned that the original title deeds were handed over to the respondent. But, even before the execution of the consent deed, on 13.06.1995, the original sale deeds were handed over to the Indian Overseas Bank, Kadambangudi and the petitioner is liable to be prosecuted under Sections 191, 193, 196, 463, 464, 465 and 467 I.P.C.

6. It is seen that the revision petitioner has not taken any steps to send the document for verification by a hand writing expert. No such petition was filed by the revision petitioner before the District Munsif Court. Without taking any steps to prove the signature as forged, the revision petitioner cannot file a petition under Section 200 Cr.P.C. There is no necessity for registering a case to send a document for verification by the Expert. The revision petitioner can send the documents for verification by Expert in the civil proceedings itself. The revision petitioner has not examined his brother and sisters in the petition. The trial Court has observed that the witnesses examined by the petitioner, did not support the case.



7. In the above circumstances, it is decided that no prima facie case is made out against the respondent and hence, there is no necessity to interfere in the orders of the trial Court. This Criminal Revision Case is dismissed.

Sd/-

Assistant Registrar (CS II)

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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 No.II,
Thanjavur.

2.The Section Officer,
Criminal Section,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to M/s.Y.KRISHNAN, Advocate (SR-36813[F] dated 01/12/2021)

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MGJ(13.12.2021) 3P 4C