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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON	05.08.2021
DELIVERED ON	11.08.2021

CORAM :

THE HONOURABLE MRS.JUSTICE S.ANANTHI

Cr1.RC(MD)No. 524 of 2016

N. Chellapandian ... Petitioner/Petitioner

Vs.

1. Angammal
2. S. Muthukumar
3. P. Alagiya Nambi
4. Vadivu
5. S. Ramesh
6. Nellaivinayagam
7. Selvi
8. Jesis Udhayaraj

...Respondents/Respondents

PRAYER: Petition filed under Section 397 r/w 401 of the Criminal Procedure Code, to call for the records and set aside the Order dated 06.05.2016 passed in C.C. No. 1 of 2016 on the file of the learned Judicial Magistrate, Srivaikundam, Thoothukudi District.

For Petitioner : Mr.Suresh Kannan for
M/s.A.Thiruvadi Kumar

For R1, R2 & R4 : Mr.Kabilan for
Mr.M.S.Jeyakarthik

ORDER

This criminal revision case has been preferred by the petitioner against the dismissal Order, dated 06.05.2016 in C.C. No. 1 of 2016 passed by the learned Judicial Magistrate, Srivaikundam, Thoothukudi District, which was a private complaint under Section 200 of Cr.P.C.

2. The petitioner/ accused has filed a private complaint under Section 200 of Cr.P.C., before the learned Judicial Magistrate, Srivaikundam, Thoothukudi District, against the respondents herein.

3. The complaint of the revision petitioner is that the land in Survey No.40 belonged to the complainant and his brothers and his father. The complainant's father died in the year 1989. The petitioner and his brothers were enjoyed the property without



partition. There were two teak trees standing in Survey No.40.

4. The accused Nos.1 & 2 fraudulently made false document as the teak trees were standing in their land in Survey Nos.39/2 & 39/3, get a false certificate from the fifth respondent and cut down the trees. They sold the teak trees to the third respondent. The sixth respondent gave permission to cut the trees without properly perused the documents. The fourth respondent being the wife of second respondent and working in revenue department colluded with the respondents 1 & 2.

5. The complainant gave complaint on 13.05.2015 to the seventh respondent. The seventh respondent did not take any action on the complainant. On the other hand, she received complaint from the first respondent and registered a case in Crime No.178 of 2015 against this petitioner. Therefore, this petitioner has filed private complaint under Section 200 of Cr.P.C. against the respondents herein and the same was dismissed by order, dated 06.05.2016 in C.C. No. 1 of 2016.

6. Heard the learned counsel appearing for the petitioner and the learned counsel appearing for the respondent Nos.1, 2 & 4 and perused the material documents available on record.

7. The point for consideration is that, Whether the teak trees were standing in Survey No.40 as alleged by the petitioner and the same were cut and removed fraudulently by the respondents 1 & 2.

8. The complainant has filed a Patta in Survey No.40 which is a joint Patta. There is no documents filed to show that the teak trees were standing in Survey No.40.

9. Even as per Right Information which was filed by this petitioner. Teak trees were standing in survey Nos.39/2 & 39/3 and also permission obtained before proper authorities by A-1 & A-2 for cutting the trees.

10. The petitioner has not produced any documents to prove the complaint against the respondents. He also added officials without any basis.

11. It is purely a civil dispute. The petitioner can file a suit for partition or declaration and compensation before the proper forum. Therefore, the learned Magistrate, has rightly dismissed the private complaint under Section 200 Cr.P.C.

12. As per Judgment reported in the case of **D.N.Bhattacharjee V. State of W.B. (1972) 3 SCC 414, 417 : 1972 SCC (Cri).564** the Hon'ble Supreme Court held is as follows:

"Dismissal of complaint.- An order of dismissal of complaint under S.203 Cr.P.C., has to be made on judicially sound grounds. It can only be made where the reasons given disclose that the proceedings cannot terminate successfully in a conviction. If, however, a bare perusal of a complaint of the evidence led in support of it show that essential ingredients of the offences alleged are absent or that the dispute is only of a civil nature of that there



are such patent absurdities in evidence produced that it would be a waste of time to proceed further, the complaint could properly be dismissed under Section 203 Cr.P.C."

13. From the above, the learned Magistrate has decided the issue is purely a civil in nature and dismissed the complaint correctly. Therefore, this Court has no valid reason to interfere with the findings of the learned Magistrate.

14. In the result, this Criminal Revision Case stands dismissed. The order, dated 06.05.2016 in C.C. No. 1 of 2016 passed by the learned Judicial Magistrate, Srivaikundam, Thoothukudi District, is hereby confirmed.

Sd/-

Assistant Registrar (CS II)

// True Copy //

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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, Srivaikundam,
Thoothukudi District.

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

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

+1 CC to M/s.M.S.JEYAKARTHIK, Advocate (SR-26102[F] dated 12/08/2021)

+1 CC to M/s.A. ROBINSON, Advocate (SR-26259[F] dated 13/08/2021)

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