



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON	26.03.2021
DELIVERED ON	05/05/21

CORAM :

THE HONOURABLE MRS.JUSTICE S.ANANTHI

Crl.RC(MD)No. 865 of 2016
and Crl.MP(MD) Nos. 12607 of 2016 and 1282 of 2017

Sikkandar Batcha @ Sikkandar ... Petitioner/Respondent/A-5

Vs.

1. State rep. By its
The Sub-Inspector of Police,
Anti land Grabbing Special Cell (CCB),
Madurai City,
(Crime No.85 of 2015). ...R-1/Petitioner/Complainant
2. H.A. Nijamutheen ...2nd Respondent/defacto
complainant

[R-2 impleaded as per Order of this Court, dated 07.06.2017]

PRAYER: Criminal Revision filed under Section 397 r/w 401 of the Criminal Procedure Code, to set aside the order dated 18.11.2016 made in Crl.RP No.29 of 2016 on the file of the learned I Additional District and Sessions Judge, Madurai, which set aside the order of the learned Special Court for Exclusive Trial of Land Grabbing Cases, Madurai dated 02.06.2016 by rejected the request for remand made by the respondent.

For Petitioner : No appearance

For 1st respondent : Mrs.M. Anantha Devi
Government Advocate (crl.side)

For 2nd respondent : Mr.T. Lajapathi Roy

O R D E R

This Criminal Revision Case has been filed by the revision petitioner to set aside the order dated 18.11.2016 in Crl.RP No.29 of 2016 passed by the learned I Additional District and Sessions Judge, Madurai, which set aside the order of the learned Special Court for Exclusive Trial of Land Grabbing Cases, Madurai dated 02.06.2016 in which the Special Court rejected the request for



remand made by the respondent.

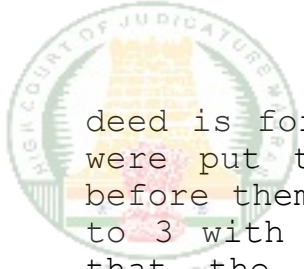
2. As against the order, dated 02.06.2016 passed by the learned Special Court for Exclusive Trial of Land Grabbing Cases, Madurai, the respondent police has preferred an appeal before the I Additional District and Sessions Judge, Madurai in CrI.RP No.29 of 2016 the same was allowed. Aggrieved over the same, the petitioner has preferred the instant criminal revision case.

3. The case of the prosecution is that the revision petitioner and the second respondent herein are arrayed as Accused Nos.4 & 5 in Crime No. 85 of 2015 for the offences under Sections 120B, 406, 420, 470, 471 r/w 34 of IPC. While so, the respondent Nos.4 & 5 were produced before the learned Judicial Magistrate (FAC) Court for Land Grabbing Cases, Madurai on 02.06.2016 for remanding the accused persons for custody. But, the learned Magistrate has refused to remand the accused persons by way of the impugned order.

4. The learned Counsel for the revision petitioner submitted that the learned Sessions Court has failed to note that the case of the defacto complainant is that the accused No.1 to 3 fraudulently created the gift deed, dated 04.12.2009, in which the petitioner and other accused witnesses to the same, it is not the case of the defacto complainant that the accused Nos.4 & 5 created the gift deed dated 04.12.2009, similarly the accused Nos.1 to 3 also not spoken about the involvement of accused Nos.4 & 5. Without having any prima facie material, the respondent police tried to secure the petitioner, though he has appeared pursuant to their summons. He further submitted that though the learned Magistrate has observed that civil dispute is pending between the parties, the learned Sessions Court did not gave any findings to that effect. He further submitted that the learned Sessions Court has failed to note that all the allegations are related to the forged document, hence, the custodial interrogation of the petitioner is not at all necessary. Hence, he prayed to allow the Criminal Revision Case.

5. Per contra, the learned Government Advocate (CrI. Side) appearing for the 1st respondent police submitted that the learned Judicial Magistrate has failed to take into consideration the complicity of the revision petitioner and the 2nd respondent. She further submitted that the prima facie material submitted by the petitioner has also not been considered by the learned Judicial Magistrate and hence, the impugned order refusing to remand the accused Nos.4 & 5 is illegal and deserves to be set aside. Hence, therefore, she prays for dismissal.

6. Mr.T.Lajapathi Roy, learned counsel appearing for the 2nd respondent contended that the alleged gift deed, dated 04.12.2009 sent for forensic examination on 05.05.2016 by the 1st respondent police to find out the genuineness of the signature of his parents and on 30.06.2016 the report has been sent to the concerned Court as <https://hcservices.courts.gov.in/hcservices/> if the executor's signatures are not tallied with the disputed gift deed, dated 04.12.2009. It is clearly shows that the alleged gift



deed is forged one and the revision petitioner and the accused No.4 were put their signatures as if the said gift deed was executed before them for the only reason that to conspired with accused Nos.1 to 3 with intention to grab their property. He further submitted that the revision petitioner and accused No.4 were put their signature knowing fully well that the said gift deed was forged one. He further submitted that the accused No.1 was also not available in India on the date of alleged execution of forged gift deed, dated 04.12.2009 and therefore, there is no chance to execute the alleged gift deed in the presence of accused Nos.4 & 5. He further submitted that the accused Nos.4 & 5 knowing fully well that one of the executor is not available in India and their signature were put by some one. But, the accused Nos.4 & 5 stated that the said executors put their signatures in their presence, therefore, from the statement of accused Nos.4 & 5, it is a clear case of conspiracy and prepared forged documents with an intention to grab their property. He further submitted that as per report received from the Forensic department, the executors signatures are differed and one of the executors as well as accused No.1 is not available in India as per the communication of immigration department, Chennai, dated 19.07.2016. Hence, he prayed to dismissed the instant Criminal Revision case.

7. Heard both sides and perused the material documents available on record.

8. The petitioner/respondent/A-5 has filed this Civil Revision Petition to set aside the order, dated 18.11.2016 in CrI.RP No.29 of 2016 passed by the learned I Additional District and Sessions Judge, Madurai, which set aside the order of the learned Special Court for Exclusive Trial of Land Grabbing Cases, Madurai, dated 02.06.2016 which rejecting the request for remand made by the respondent.

9. The complainant/respondent police has filed a revision on the file of the learned I Additional District and Sessions Judge, Madurai in CrI.R.P. No.29 of 2016 under Section 397 (1) and 399 of Cr.P.C.(Act 2 of 1974) to call for the records pertaining to the Crime No.85 of 2015 on the file of the learned Special Judicial Magistrate (for land grabbing cases) at Madurai and to set aside the order of refusal of remand of the accused Nos.4 & 5 passed by the learned Special Judicial Magistrate, (for land grabbing cases) Madurai, dated 02.06.2016.

10. A case in Crime No. 85 of 2015 was registered against the A-4 & A-5 for the offences under Sections 120(b), 406, 420, 470, 471 r/w 34 of IPC, and they were produced before the learned Special Judicial Magistrate, (for land grabbing cases) Madurai, for remand. The learned Special Judicial Magistrate has refused to remand the accused persons. Hence, the respondent police has preferred an appeal against the impugned order, dated 02.06.2016, before the learned I Additional District and Sessions Judge, Madurai, in CrI.RP



No.29 of 2016. The learned Sessions Judge has allowed the Criminal Revision petition and remanded the matter to the learned Special Judicial Magistrate Court (for land grabbing cases), Madurai for fresh consideration.

11. When the matter was taken up for hearing on 26.03.2021, no representation on the side of the revision petitioner. He was called absent. On perusal of the records and considering the facts and circumstances of the case, this Court is inclined to interfere with the findings of the learned I Additional District and Sessions Judge, Madurai, for the following reasons:

(i). The learned Special Court for Exclusive Trial of Land Grabbing Cases, Madurai, has every right to refuse to remand the accused persons on the ground that *prima facie* the case was not made out against the accused Nos.4 & 5.

(ii). The accused Nos.4 & 5 are attestors of alleged forged documents. If a Revision Court found that Section 120(b) of IPC added to other offences after refusal of remand, the Revision Court itself can very well decide the matter. It cannot be remanded the case for fresh consideration.

12. The learned Government Advocate (crl. Side) appearing for the respondent police submitted, on instructions submitted that, after completing investigation the respondent police has filed charge sheet and the same was taken cognizance and its pending for trial. At this stage remand of accused person is not necessary.

13. In view of the foregoing reasons, the Criminal Revision Case is allowed and set aside the order, dated 18.11.2016 in CrI.RP No.29 of 2016 passed by the learned I Additional District and Sessions Judge, Madurai, which set aside the order of the learned Special Court for Exclusive Trial of Land Grabbing Cases, Madurai dated 02.06.2016. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (AD-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.



1. The I Additional District and Sessions Judge, Madurai.

2. The Special Court for Exclusive Trial of Land Grabbing Cases,
Madurai.

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

4. The Section Officer, Criminal Section,
Madurai Bench of Madras High Court,
Madurai. (2 Copies)

+1 CC to M/s.T.LAJAPATHI ROY, Advocate (SR-18474[F] dated
05/05/2021)

**Order made in
Cr1.RC(MD)No.865 of 2016**

05.05.2021

CN(01.06.2021)3P C7