



Crl.R.C.No.648 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.06.2022

CORAM :

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

Crl.R.C.No.648 of 2022

C.Dasaram,
S/o.Chinnasamy

... Petitioner

Versus

1.V.Perumal
2.P.Kembammal
3.Thavasiyappan
4.Thangaraj
5.Ravishankar

6.The Inspector of Police,
Kadambur Police Station,
Sathyamangalam Taluka,
Erode District.

... Respondents

Criminal Revision Case filed under Section 397 and 401 Cr.P.C, to call for the records relating to the order of dismissal made in Crl.M.P.No.553 of 2022 dated 11.05.2022 by the learned Judicial Magistrate Court No.1, Gopichettypalayam, in dismissing a petition filed under Section 156(3) of Cr.P.C. and set aside the same by allowing the above criminal revision petition.

For Petitioner	:	Mr.K.A.Mariappan
For R1 & R2	:	Mr.Ma.Pa.Thangavel
For R3 to R5	:	Mr.V.Ragavachari
For R6	:	Mr.S.Vinoth Kumar, Government Advocate (Crl.Side)



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ORDER

WEB COPY This Criminal Revision Case is filed aggrieved by the order of the learned Judicial Magistrate No.1, Gobichettipalayam, dated 11.05.2022 in CrI.M.P.No.553 of 2022, in and by which, the prayer of the petitioner to refer his complaint dated 20.04.2022 to the respondent police for investigation under Section 156(3) Cr.P.C. has been rejected by the learned Magistrate.

2.A perusal of the said complaint, it is clear that the grievance of the petitioner is that the petitioner is the owner of the particular property. The proposed accused, who is not at all the owner and who purchased 1/3 share in some other property, which is in the very same survey number, by falsely claiming that he is the owner of the property and by fraudulently getting possession certificate from the Village Administrative Officer has executed a sale deed claiming ownership of the property and hence, the complaint.

3.In order to make out an offence of forgery, the proposed accused ought to have created a false document as defined under Section 464 of IPC. The Hon'ble Supreme Court of India in the judgment of ***Mohammed Ibrahim and others Vs. State of Bihar***¹, has clearly explained about the three types of false documents as envisaged in Section 464 of IPC, and it is useful to extract the



paragraph No.14 of the said Judgment, which reads as follows:-

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"14.An analysis of Section 464 of the Penal Code shows that it divides false documents into three categories:

1. The first is where a person dishonestly or fraudulently makes or executes a document with the intention of causing it to be believed that such document was made or executed by some other person, or by the authority of some other person, by whom or by whose authority he knows it was not made or executed.

2. The second is where a person dishonestly or fraudulently, by cancellation or otherwise, alters a document in any material part, without lawful authority, after it has been made or executed by either himself or any other person.

3. The third is where a person dishonestly or fraudulently causes any person to sign, execute or alter a document knowing that such person could not by reason of (a) unsoundness of mind; or (b) intoxication; or (c) deception practised upon him, know the contents of the document or the nature of the alteration.

In short, a person is said to have made a "false document", if (i) he made or executed a document claiming to be someone else or authorised by someone else; or (ii) he altered or tampered a document; or (iii) he obtained a document by practising deception, or from a person not in control of his senses."

4. Therefore, a perusal of the above, it would be clear that the grievance of the petitioner does not fall into any of the three categories as enumerated by the Hon'ble Supreme Court.



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5.It is said that the said criminal quality of an act cannot be determined by intuition or it can be judged by any standards, but it has to be expressly defined in law by penal consequences. Therefore, no exception can be taken for the order of the learned Magistrate to refuse the complaint to be investigated and holding that the matter is Civil in nature as the acts in the complaint does not *per se* satisfy the ingredients of any offence under IPC.

6.In that view of the matter, this Criminal Revision Case is dismissed, however, petitioner will be at liberty to pursue his civil remedies available under law.

29.06.2022

Index : yes/no
Speaking/Non-speaking order
sp

To

1.The Judicial Magistrate Court No.1,
Gopichettipalayam.

2.The Public Prosecutor,
Madras High Court.

3.The Inspector of Police,
Kadambur Police Station,
Sathyamangalam Taluka,
Erode District.



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D.BHARATHA CHAKRAVARTHY, J.,

sp

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