



IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 16.06.2022

CORAM :

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THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

Crl.R.C.No.729 of 2022

N.Ethiraj (M/A-74 years)

... Petitioner

Versus

1.The Commissioner of Police,
O/o. Commissioner of Police,
E.V.K. Sampath Road, Vepery,
Chennai - 600 007.
(Opp. Periyar Thidal)

2.The Inspector of Police,
Land Grabbing Wing,
Central Crime Branch,
18th Team, Vepery,
Chennai - 600 007.

3.K.Vinayagamurthy

4.V.Bharat Babu

5.V.Uma

... Respondents

Criminal Revision Case filed under Section 397 read with 401 Code of Criminal Procedure, to call for the records of order dated 02.05.2022 passed in Crl.M.P.No.167 of 2022, on the file of the Special Metropolitan Magistrate, Land Grabbing Court II, Egmore at Allikulam and to examine the legality, correctness and propriety of the order passed in Crl.M.P.No.167 of 2022 dated 02.05.2022 by the file of the Spl.Metropolitatan Magistrate and Grabbing Court II, Egmore at Allikulam.

For Petitioner :	Mr.M.Anandaraj
For Respondent :	Mr.S.Vinoth Kumar
1 & 2	Government Advocate (Crl.side)

O R D E R

This Criminal Revision Case is filed aggrieved by the order dated 02.05.2022 in Crl.M.P.No.167 of 2022 passed by the learned Special Metropolitan Magistrate for land grabbing Court No.II, whereby the petition filed by the petitioner to refer his complaint for investigation under Section 156(3) of Cr.P.C. was rejected by finding that the dispute raised in the complaint are of Civil in nature and essentially is of title dispute.



2. The learned counsel for the petitioner would assail the order of the court below on the ground that the purpose of referring the complaint under Section 156(3) of Cr.P.C., is to investigate an offence punishable under the provisions of the Indian Penal Code. In the present case, the learned Magistrate neither conducted an enquiry nor directed the Police to conduct an inquiry but came to the conclusion that the dispute is Civil in nature. The learned Magistrate ought to have taken into account Clause 562 Police Standing Order for the purpose of referring the complaint for inquiry and to investigate the allegations mentioned in the complaint. Once the complaint discloses the cognizable offence, the learned Magistrate ought not to have given the finding as the dispute is Civil in nature.

3. Per contra, the learned Government Advocate (Crl.side) appearing for the respondent/Police would contend that the complaint is essentially one relating to the validity of the Settlement Deed dated 05.12.2003, which was executed by one of the legal heirs, who also claims that she got the title orally and executed the document. In such case, even if the document is invalid the matter has to be essentially agitated before the Civil Forum. Absolutely there is no forgery or signature by impersonation. The accused being one of the legal heirs, the finding of the Trial Court cannot be faulted.

4. I have considered the rival submissions made on either side and perused the material records of this case.

5. Perusal of the settlement deed would make it clear that the executor is also a legal heir and she claims title. It is said that the criminal quality of an act is neither discernible by intuition nor it can be judged by any standards, but it has to be expressly defined in law with penal consequences. Therefore, in order to claim an offence of forgery, the proposed accused should be said to have made 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 Bihar¹, 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:-

"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



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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.

6. Therefore, it may be seen that even an untenable claim of title by a legal heir and execution of settlement deed would not per se come under any of the above mentioned three types of false documents. Therefore, finding no error in the order of the Trial Court, this Criminal Revision is dismissed. However, liberty is given to the petitioner to agitate his grievance in the manner known to law, for redressal of his grievances.

Sd/-

Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

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To

1. The Special Metropolitan Magistrate,
Land Grabbing Court II, Egmore, Allikulam.

2. The Commissioner of Police,
O/o. Commissioner of Police,
E.V.K. Sampath Road, Vepery, Chennai - 600 007.
(Opp. Periyar Thidal)

3. The Inspector of Police,
Land Grabbing Wing, Central Crime Branch,
18th Team, Vepery, Chennai - 600 007.

4. The Public Prosecutor, High Court of Madras.

+2 ccs to Mr.M.Anandaraj, Advocate Sr.NO. 35805