



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.01.2022

CORAM:

THE HON'BLE MR.JUSTICE A.D.JAGADISH CHANDIRA

CRIMINAL REVISION CASE NO.1006 OF 2021

S.Vadivi

... Petitioner

..Vs..

The Inspector of Police (Crime),
P-1, Pulianthope Police Station,
Pulianthope, Chennai 600 012.

... Respondent

PRAYER:

Criminal Revision Case filed under Section 397 & 401 of the Code of Cr.P.C to set aside the order dated 26.06.2019 pertaining to Crl.M.P.No.6851 of 2019 passed by the X Metropolitan Magistrate, Egmore.

For Petitioner : Mr.Ravindra Ram

For Respondent : Mr.S.Sugendran
Government Advocate (Crl side)

O R D E R

This Criminal revision has been filed against the order passed by the learned X Metropolitan Magistrate, Egmore in Crl.M.P.No.6851 of 2019 dated 26.06.2019, dismissing the petition filed under Section 156(3) of Cr.P.C. seeking to direct the second respondent police to register the F.I.R.

2.The gist of the case of the petitioner is that the petitioner and four other siblings were born to one Tirunavukkarasu and Tmt.Parvathi. It is the further case of the petitioner that prior to the marriage of Parvathi and her father Tirunavukkarasu, the said Parvathi had married one Arjunan and she had a child by name Sundar and all the children grew together at Door No.108, 4th Block, P.K.Colony, Demalious Road, Chennai-12. The said Sundar had obtained a Community Certificate dated 27.03.1980, where his father was mentioned as Arjunan. It is the further case of the petitioner that his



father Tirunavukkarasu and mother Parvathi passed away and thereafter, in order to usurp the property belonging to their father Tirunavukkarasu, the proposed accused Sundar had obtained Aadhar card and other documents falsely mentioning his father's name as Tirunavukkarasu and suppressing his biological father Arjunan and thereafter, he had filed civil case and attempted to knock down the property belonging to the petitioner and her siblings. The petitioner had given a complaint against his step brother, Sundar for the offences under sections 420, 406, 204, 465, 468 and 471 I.P.C. on 12.09.2018 whereas the second respondent police after conducting an enquiry, had closed the complaint stating that civil disputes are pending between the parties. Against the closure of complaint, the petitioner had filed a petition under section 156(3) of Cr.P.C. before the learned Magistrate and the learned Magistrate wrongly construing that the petitioner had given a complaint only on 09.05.2019 and on the very next day, she had come up with the petition under section 156(3) of Cr.P.C. without giving time to the respondent as required under section 154 Cr.P.C., had dismissed the petition against which, the revision has been filed.

3.Learned counsel for the petitioner would submit that the proposed accused Sundar is the step brother of the petitioner. He is born to the mother of the petitioner through one Arjunan. Though the mother of the petitioner was living with the father of the petitioner and begotten five children, the said Sundar has no right over the property belonging to the father of the petitioner viz., late Tirunavukkarasu, whereas fabricating the documents, the said Sundar had attempted to usurp the property belonging to the father of the petitioner. He had also obtained several documents including Aadhar card and voter ID by furnishing false information. Though the complaint makes out offences of cognizable in nature, the respondent failed to register a case and investigate the matter and thereby the petitioner had approached the learned Magistrate. The complaint had been given on 12.09.2018 and it has also been acknowledged by the respondent herein whereas the learned Judge wrongly construing that the complaint was given only on 09.05.2019 and on the next day, the petitioner had approached the court, had dismissed the application and thereby, he would seek to set aside the impugned order.

4. Mr.S.Sugendran, learned Government Advocate (crl.side) would that the complaint of the petitioner dated 12.09.2018 was received as a current paper and the respondent conducted enquiry and finding that the petitioner and the proposed accused were siblings and that civil disputes were pending between them had closed that complaint.

5.On instructions, the second respondent P.Santhi Devi,



Inspector of Police, P1 Crime is present before this Court through video conferencing. She would submit that the complaint of the petitioner dated 12.09.2018 had been received as current paper from the office of the Deputy Commissioner of Police vide Reference Number in C.No.244/DCP(P)/CAMP/2019 and that enquiry was conducted by her predecessor and he had finding that a civil suit was pending between the parties, had closed the petition.

6. Heard the learned counsel for the petitioner and perused the materials available on record.

7. This Court is of the opinion that the complaint of the petitioner makes out prima facie case of offences of cognizable nature. The respondent is bound to register a case and investigate the matter. The petitioner had given a complaint on 12.09.2018 and she had approached the learned Magistrate on 10.05.2019, whereas the learned Magistrate wrongly construing that sufficient time was not given to the respondent had dismissed the petition. In view of the same, this Criminal Revision Case stands allowed. The impugned order stands set aside. Since the alleged proposed accused and the petitioner are siblings born through the same mother but through different biological fathers, the respondent is directed to conduct a preliminary enquiry and if it is found that offences of cognizable nature are made out, the respondent shall register a case and investigate the matter in accordance with law. With this observation, this Criminal Revision Case stands allowed.

Sd/-

Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

vri/shk

To

1. The Inspector of Police (Crime),
P-1, Pulianthope Police Station,
Pulianthope, Chennai 600 012.
2. X Metropolitan Magistrate,
Egmore, Chennai.



3. Do-thro The Chief Metropolitan Magistrate,
Egmore, Chennai.

4. The Public Prosecutor,
High Court, Madras.

Copy To

The Section Officer,
Criminal Section, High Court,
Madras.

+2ccs to Mr.Ravindra Ram, Advocate, S.R.No.2580

Crl. R.C. No.1006 of 2021

MT (CO)
PM/31/01/2022