

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.07.2022

CORAM :

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

Crl.R.C.No.857 of 2022

Madhu Gounder,
S/o.Raja

... Petitioner

Versus

1.The Superintendent of Police,
Dharmapuri District.

2.State Rep by Inspector of Police,
District Crime Branch,
Dharmapuri.

3.Madheswaran
4.Hema

5.Dr.S.K.Selvam,
Senior Assistant Professor,
Government Medical College Hospital,
Dharmapuri District.

... Respondents

Criminal Revision Case filed under Section 397 read with 401 Cr.P.C, to call for the records and set aside the order dated 28.03.2022 passed by the learned Judicial Magistrate Court, Palacode, Dharmapuri District in Crl.M.P.No.181 of 2022 and direct the 2nd respondent to register case.

For Petitioner : Mr.M.Selvam

For R1 & R2 : Mr.S.Vinoth Kumar,
Government Advocate (Crl.Side)

For R3 to R5 : No appearance

O R D E R

This Revision is filed aggrieved by the order of the learned Judicial Magistrate Court, Palacode, Dharmapuri District, dated 28.03.2022 in Crl.M.P.No.181 of 2022, in and by which, the prayer of the petitioner to refer his complaint dated 22.02.2021 for investigation has been refused by the learned

Magistrate on the ground of jurisdiction and other technical aspects.

2.On a perusal of the complaint, the grievance of the complainant is that a General Power of Attorney was executed in favour of the proposed accused on 19.08.2010 by one Thirupathi Gounder, Raja, Chinnaraj, Ammasi, Chithan, Kutty @ Raman and Ponnusamy. Of the said seven persons, Thirupathi Gounder died on 26.03.2016 and Ammasi died on 26.07.2018. With that full knowledge, the proposed accused had executed a sale deed on 05.11.2020 claiming to be power agent of the said seven persons.

3.It is to be noted that as per Section 464 of IPC, whoever with an intention of causing it to believe that any document is executed by the authority of a person, who the executor believes that he does not have the authority to make would amount to false document. Therefore, if a power agent executes a document after the death of a person, the same would be within the definition of false document and therefore, the complaint of the petitioner discloses prima facie cognizable offence.

4.As a matter of fact, the Trial Court did not consider the merits of the complaint to refuse the prayer, but rejected only on technical issues. When a complaint discloses cognizable offences, instead of relegating him or delaying his case on technical grounds, his complaint can be directed to be investigated by the proper police.

5.In this case, the offence is said to have arisen within the jurisdiction of second respondent, namely the Inspector of Police, District Crime Branch, Dharmapuri. Therefore, the complaint of the petitioner dated 22.02.2021 is forwarded to the second respondent to register the case and investigate into the same in accordance with law and file final report within a period of six months from the date of receipt of a copy of this order.

6.Accordingly, the Criminal Revision Case is allowed on the above terms.

Sd/-
Assistant Registrar(CS-II)

//True Copy//

Sub Assistant Registrar

To

- 1.The Judicial Magistrate,
Palacode, Dharmapuri District.
- 2.Do Thro the Chief Judicial Magistrate,
Dharmapuri.
- 3.The Superintendent of Police,
Dharmapuri District.
- 4.The Inspector of Police,
District Crime Branch,
Dharmapuri.
- 5.The Public Prosecutor,
High Court, Madras.

+1cc to Mr.C.Umashankar, Advocate SR.No.44129

Cr1.R.C.No.857 of 2022

SKM(CO)
GN(28/07/2022)