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Crl.O.P.No.21100 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.06.2022

CORAM:

THE HON'BLE MR.JUSTICE G.K.ILANTHIRAIYAN

Crl.O.P.No.21100 of 2020

K.Subramanian

... Petitioner

Vs.

Kasi Padaiyatchi

... Respondent

Prayer: Criminal Original Petition filed under Section 482 of Criminal Procedure Code, to set aside the order made in Crl.R.P.No.2 of 2020 dated 15.10.2020 on the file of the learned III Additional District Judge, Kallakurichi.

For Petitioner : Mr.S.Patrick
For Respondent : No appearance

ORDER

This Criminal Original Petition has been filed to aside the order made in Crl.R.P.No.2 of 2020 dated 15.10.2020 on the file of the III Additional District Court, Kallakurichi, thereby to set aside the order passed by the learned Magistrate in Crl.O.P.No.4035 of 2019 thereby



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dismissed the petition filed under Section 156(3) of Cr.P.C.

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2.The respondent lodged complaint alleging that his wife executed a Sale Deed in favour of the petitioner in which the third item of the property was included by fabrication by the petitioner.

3.The learned counsel appearing for the petitioner would submit that the wife of the respondent herein executed a Sale Deed in respect of the subject property. However, she failed to appear before the registering authority to register the Sale Deed. Therefore, the petitioner filed petition for compulsory registration in which a detailed enquiry was conducted and the wife of the respondent was directed to register the Sale Deed. Accordingly, she was present before the registration authority and a Sale Deed was registered in favour of the petitioner herein. Even then, the wife of the respondent herein challenged the Sale Deed in O.S.No.462 of 2008 on the file of the III Additional District Munsif Court, Kallakurichi and the same was dismissed. Aggrieved by the same, she preferred an Appeal Suit in A.S.No.7 of 2014 and the same was also dismissed on the file of the Sub Court, Kallakurichi. Aggrieved by the



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same again, she preferred a Second Appeal in S.A.No.893 of 2015 and the same was dismissed by this Court on 07.09.2017. In fact, the Trial Court framed specific issue in respect of the allegations in the present complaint and it was negative and ended in favour of the petitioner herein. While being so, after a period of 11 years again the respondent who is being husband of the person who executed a Sale Deed filed a complaint for direction under Section 156(3) of Cr.P.C in Crl.O.P.No.4035 of 2019. The learned Magistrate rightly dismissed the application and aggrieved by the same, the respondent preferred revision. However, Revisional Court set aside the order and directed the concerned jurisdictional police to register and investigate the complaint.

4. A perusal of the documents reveals that already this issue was raised before the Civil Court which was negated by the Civil Court and confirmed by this Court. Therefore, the learned Magistrate rightly dismissed the complaint and as such the order passed by the Revisional Court cannot be sustained and it is liable to be set aside. Accordingly, the order made in Crl.R.P.No.2 of 2020 dated 15.10.2020, on the file of the learned III Additional District Judge, Kallakurichi is hereby set aside.



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5. Therefore, this Criminal Original Petition stands allowed.

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Index : Yes / No
Speaking / Non Speaking order
cda/mn

To
The III Additional District Judge,
Kallakurichi.



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G.K.ILANTHIRAIYAN, J.

mn

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