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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.04.2022

CORAM:

THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

Crl.R.C.No.1158 of 2017
and
Crl.M.P.No.11074 of 2017

B.C.Wilson Vajjiram

... Petitioner

Versus

1.The Sub-Divisional Magistrate - cum
- Sub Collector,
Thirupathur, Vellore District.

2.The Inspector of Police,
Thirupathur Taluk Police Station,
Vellore District.

3.The National Missionary Society of India,
Rep. by its General Secretary S.Christopher Vijayan,
S/o.Selvamony
Having Registered Office at
No.126, Peters Road,
Royapetta, Chennai - 600 014.

... Respondents

PRAYER : Criminal Revision Case filed under Sections 397 and 401 of Cr.P.C. to set aside the order passed by the Sub-Divisional Magistrate - cum - Sub-Collector, Thirupathur, Vellore District in M.C.No.49 of 2017, dated 24.08.2017.

For Petitioner :Mr.K.Sudhakar, Legal Aid Counsel

For Respondents:Mr.A.Damodaran,
Additional Public Prosecutor
for R1 and R2

Mr.T.Mohan
for Mr.Chelladurai Caldwell
for R3



O R D E R

The petitioner, 'A' party in the order passed by the 1st respondent filed this Criminal Revision to set aside the order passed by the Sub-Divisional Magistrate - cum - Sub-Collector, Thirupathur, Vellore District in M.C.No.49 of 2017, dated 24.08.2017.

2. The contention of the petitioner is that the summons for the proceedings was issued on 21.08.2017 and the hearing was held on 24.08.2017. Further in the notice, Christopher Vijayan mentioned as 'A' party. But, in the order, Wilson Vajjiram referred as 'A' party and Prabakaran Group shown as 'B' party. He further submitted that under Section 145 Cr.P.C proceedings the 1st respondent had gone into the details referring to various documents and Court proceedings and given a finding on the documents which he is not called for. The scope of Section 145 Cr.P.C proceedings is only to see that who is in possession and pass appropriate orders. If there is any rival counter claim, it is for the appropriate civil Court to pass orders and not the 1st respondent. The 1st respondent had exceeded his limit beyond the scope and passed order under Section 145(1) Cr.P.C. He further submitted that by passing an order restraining the petitioner's group he had given a finding in favour of the 'B' party which is not proper and it is only the Civil Court to decide the same. Assailing this point, the petitioner filed this revision.

3. Mr.T.Mohan, learned counsel appearing for the 3rd respondent filed typed set and submitted that the contention of the petitioner is not sustainable. Earlier the notice dated 19.06.2017 was issued for the hearing on 30.06.2017. Thereafter, the second notice was issued on 30.06.2017. The petitioner had participated in the enquiry and it is only a continuous process of enquiry and not confined to one day. He further submitted that though in the order in the beginning 'A' and 'B' party is wrongly mentioned, it is only a typographical error, which the petitioner is blowing out of proportion.

4. He further submitted that the Deed of Will of Brother George A.Raja which is a registered document No.1 of 2014 has been produced by inserting a forge sheet. Referring to page No.5 of the document, wherein the photograph of George A.Raja has been shown is not the original photograph of George A.Raja. On the other hand, before the 1st respondent as well as in the writ proceeding before this Court in W.P.No.39036 of 2015, the



Registered Will has been produced in which page No.5 photograph alone has been changed. Thus the petitioner had produced forged document and pleaded forgery before this Court as well as the 1st respondent. The 1st respondent in his order discussed about the same and confirmed the forgery committed by the petitioner. The petitioner has not come with clean hands and approached this Court and this Court cannot provide any remedy and his petition has to be dismissed in limine. He further submitted that the order passed by the 1st respondent is detailed one which needs no interference.

5. The learned Additional Public Prosecutor filed counter, in which the pendency of the civil suit as well as the forgery committed by the petitioner has been elaborated. It will be relevant to extract the same:

2. It is submitted that the case of prosecution is that on 23.04.2017, one B.C.Wilson Vijajiram/ petitioner has lodged a complaint before the 2nd respondent/ Inspector of Police stating that he is living at K.Bandharapalli along with his family members and the trustees of Christukula Ashramam/ brothers Viz., R.S.Victor, George A.Raja, Jaya David, S.V.Thondaiman who were running a Christukula Ashramam. The said trustees were aged person about 90 years old, hence, they executed Lease Deed to the National Missionary Society of India for 3 years.

During the year 2002, the said trustees cancelled the said Lease Deed and further stated that the said trustees viz., R.S.Victor, Jaya David and S.V.Thondaiman were died, hence, the said George A.Raja executed Will in favour of B.C.Wilson Vijajiram/ petitioner/ Based on the Will, B.C.Wilson Vijajiram/ petitioner was running a said trust. At that time, one Anbarasu and George Manjunathan gave trouble to B.C.Wilson Viajjiram/ petitioner.

In this regard, the petitioner filed a petition before the Lok Adalat vide O.S.No.195 of 2015 and the order passed in favour of the petitioner. Again the said persons one Anbarasu and George Manjunathan gave continues trouble to the petitioner. Hence, the petitioner filed a Writ petition before the Hon'ble High Court, Madras vide W.P.No.39036 of 2015 seeking police protection for



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conducting services/ prayer in Christukula Ashram Church and request to allow to maintain the administration of the said ashram.

3. It is submitted that one Prabakaran/ opposite party stated that one Juesudason and Enrest Forester Paton who were founders was originally established the said Christukula Ashramam and the hospital. While so, the founders on 12.04.1946 executed a deed of indenture conveying and settling the properties of the said Ashramam and in favour of the Trustees morefully elaborated in the manner found therein vide deed registered as Doc.No.2003 of 1946 at Sub Registrar Office, Tirupathur.

In the said trust deed, there is a mandatory stipulation, that in the event of its inability to discharge its functions in the manner of prescribed therein, the management and its properties have to be handed over to the National Missionary Society of India. The said trustees were expired. Hence, one R.S.Victor, George A.Raja, Jaya David, S.V.Thondaiman and A.Jyothi Rathinam who were trustees of Christukula Ashramam was executed a Transfer of Trusteeship Declaration in favour of the National Missionary Society of India vide Doc.No.4240 of 2002, dated 01.03.1999.

As per the "Transfer of Trusteeship Declaration" the trustees have transferred the lands in Kadhirimangalam Village, Tirupathur Taluk together with the old hospital buildings, the ashram hospital, all the revenue records of the above mentioned properties stands in the name of the National Missionary Society of India (Christukula Ashramam trustee).

Meanwhile, the petitioner/ B.C.Wilsons Vajjiram had fradulently managed to executed a Will appointing themselves as its beneficiary (Trustees of Christukula Ashramam) in the name of Bro.George A.Raja never executed such a will nor registered it before the Sub Registrar, Natrampalli making the petitioner as its beneficiary. Thus, the petitioner by way of impersonation managed to execute the will by producing some other person in



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the name of Bro George A.Raja admittedly was 64 years old on the date of the document dated 01.03.1999 bearing reg.No.4240 of 2002, on the file of S.R.O. Tirupathur. In the will dated 03.01.2014 vide Doc.No.1 of 2014 at SRO Natrampalli, at that time, the petitioner used photo of said Manjunathan instead of George Raja [fake voter ID card No.SMX0459846].

Based on that, the petitioner filed a petition before the Lok Adalat vide O.S.No.195 of 2015 and the order passed in favour of the petitioner. Thus, the petitioner fabricated the documents submitted before the court and obtained order in his favour.

4. It is submitted that the 2nd respondent herein has sent a requisition letter to the 1st respondent herein on 23.04.2017 and 15.06.2017 along with FIR stating that due to Administrative dispute between one Prabakaran and B.C.Wilson Vijajiram/ "Petitioner" who has to admin the Christukula Ashram. With regarding to the above, the 2nd respondent police has registered a case in Thirupathur Taluk Police Station, Crime Nos.232/2017, u/s.107 of Cr.P.C, dated 23.04.2017 and Cr.No.317/2017 u/s.145 of Cr.P.C, dated 15.06.2017 respectively.

5. It is further submitted that, the 1st respondent issued summon to the both parties to appear before the 1st respondent for enquiry on 30.06.2017. Based on that, on 30.06.2017, both parties viz., Prabakaran and B.C.Wilson Vijajiram/ "Petitioner" were appeared before the 1st respondent and their statements and also collected documents from them.

6. It is submitted that a perusal of the records and reports sent by the 2nd respondent reveals that there is dispute between the petitioner B.C.Wilson Vijajiram/ Petitioner and Prabakaran/ opposite party with regard to Administration of Christukula Ashramam. Hence, the 1st respondent herein issued order in M.C.No.49 of 2017, dated 24.08.2017 in order to prevent and maintain in the law and order in the above area.



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7. It is submitted that during the course of enquiry which reveals that the above said possession of Christukula Ashramam after getting proper registration in continuous with independent and Patta, confirmed that the said possession belongs to Tr.Prabhakarn & others. Hence, the Sub Collector ordered the following persons namely Tr.Wilson Vajjiram/ Petitioner should not give any trouble to Mr.Prabhakaran & others, National missionary society of India.

8. It is submitted that now, the petitioner/ B.C.Wilson Vajjiram filed this present petition to set aside the order passed by the Sub Divisional Magistrate cum Sub Collector, Tirupathur, Vellore District in M.C.No.49 of 2017, dated 24.08.2017 U/s.145 of Cr.P.C.

9. It is submitted that the petitioner cannot question the proceedings initiated under sec.145 Cr.P.C subject to final adjudication of the matter by Civil Court. Admittedly, the petitioner has not produced any piece of records with regard to the nature of civil suit and any final orders by the Civil Court. Hence, this contention of the petitioner has no basis.

10. It is submitted that the petitioner has not produced any piece of record with regard to the nature of suit pending before Civil Court and there is any interim or final order. But the petitioner has failed to avail the opportunity to represent his case before the 1st respondent. Hence, there is no justification on the Criminal Revision Petition.

6. Upon hearing the counsel on either side and on perusal of the materials, this Court find that there is no illegality in the order passed by the 1st respondent. In view of the same, this Court is not inclined to interfere with the order passed by the 1st respondent. Hence, the Revision petition is liable to be dismissed.

7. Accordingly, this Criminal Revision Case is dismissed. Consequently, the connected Criminal Miscellaneous Petition is closed.



8. This Court places special appreciation to the Legal Aid Counsel Mr.K.Sudhakar, for thorough preparation and effective submissions made on the case of the petitioner based on the documents that was available with him.

SD/-
ASSISTANT REGISTRAR

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SUB ASSISTANT REGISTRAR

dsa

To

- 1.The Sub-Divisional Magistrate - cum
- Sub Collector,
Thirupathur, Vellore District.
- 2.The Inspector of Police,
Thirupathur Taluk Police Station,
Vellore District.
- 3.The General Secretary S.Christopher Vijayan,
National Missionary Society of India,
S/o.Selvamony
Having Registered Office at
No.126, Peters Road,
Royapetta, Chennai - 600 014.

+3cc to Mr.Chelladurai Caldwell, Advocate Sr.26796

Cr1.R.C.No.1158 of 2017

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srg 02/05/2022