



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 10.03.2022

CORAM:

THE HONOURABLE MR.JUSTICE **G.K.ILANTHIRAIYAN**

**Crl.R.C. (MD)No.243 of 2022**

**in**

**Crl.M.P. (MD)No.3242 of 2022**

1.Shanmugam

2.Amsavalli

...Petitioners

Vs.

State through its  
Inspector of Police,  
City Crime Branch,  
Trichy District.  
Cr.No.14 of 2014

...Respondent

**Prayer :** This Criminal Revision has been filed under Section 397 r/w 401 of Criminal Procedure Code, to call for the records relating to the order passed by the Learned Judicial Magistrate No.I, Trichy in Cr.M.P.No.6512 of 2021, dated 24.11.2021 and set aside the same.

For Petitioners : Mr.T.A.Ebenezer

For Respondent : M/s.M.Aasha

Government Advocate

### **ORDER**

This Criminal Revision has been filed to call for the records relating to the order passed by the learned Judicial Magistrate No.I, Trichy in Cr.M.P.No.6512 of 2021, dated 24.11.2021 and set aside the same.

2. There are totally four accused in this case and the petitioners herein are arrayed as A1 and A2 in C.C No.523 of 2021, which has been taken cognizance for the offence under Sections 420, 506(i), 120(B), 294(b) and 34 of IPC. The case of the prosecution is that A3 and A4 approached the defacto complainant on behalf of the petitioners to sell the property which belongs to the petitioners for a total sale consideration of Rs.80 lakhs. The defacto complainant agreed and paid a sum of Rs.60 lakhs to A3 and A4 and she executed power of attorney deed in favour of A3 for the remaining sale consideration of Rs.20 lakhs. After payment of Rs.20 lakhs, power of attorney will be cancelled. Therefore, the defacto complainant paid a sum of Rs.20 lakhs to A1 and A3 and prayed for cancellation of power deed. However A3 had executed sale deed in favour of A1 and A2 by using the said power of attorney.



3. The learned counsel for the petitioners would submit that there is absolutely no piece of evidence to prove that the defacto complainant paid a sum of Rs.60 lakhs in favour of A1 and A2 and even assuming that the defacto complainant paid the entire sale consideration, she can very well cancel the power of attorney executed in favour of A3 unilaterally without any notice. While being so, the complaint has been closed by the respondent police. Now the present complaint has been lodged before the learned Magistrate and on the direction issued under Section 156(3) of Cr.P.C., a case was registered and final report was filed and the same has been taken cognizance for the offences under Sections 420, 506(i), 120(B), 294(b) and 34 of IPC.

4. On perusal of the record, it revealed that there are four accused in this case and the petitioners herein are arrayed as A1 and A2. They approached the defacto complainant to sell their property for a total sale consideration of Rs.80 lakhs after receipt of Rs.60 lakhs from the defacto complainant by several instalments. For the remaining sum of Rs.20 lakhs, there is an oral agreement between them as to give power of attorney to one common person, namely, the third respondent. Accordingly power of attorney was executed in favour of the third accused by the defacto complainant for remaining balance consideration of Rs.20 lakhs. Even after payment of Rs.20 lakhs, before cancellation of power of attorney, the third accused executed sale deed in favour of the petitioners herein and thereby committed offences under Sections 420, 506(i), 120(B), 294(b) and 34 of IPC.

5. In view of the above, the trial Court had rightly dismissed the petition for discharge and this Court finds no illegality or infirmity in the order passed by the Court below.

6. In the result, the Criminal Revision stands dismissed. Further, the trial Court is directed to complete the trial proceedings in CC No.523 of 2021 within a period of six months from the date of receipt of a copy of this order. However, the personal appearance of the petitioners are dispensed with before the trial Court. Consequently connected miscellaneous petition is also closed.

Sd/-

Assistant Registrar (AE)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)



To:

1. The Judicial Magistrate No.I, Trichy
2. The Inspector of Police,  
City Crime Branch,  
Trichy District.
3. The Additional Public Prosecutor,  
Madurai Bench of Madras High Court,  
Madurai.

Copy to:

The Section Officer,Criminal(Records),  
Madurai Bench of Madras High Court,  
Madurai.

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MGJ(24.03.2022) 3P 5C