



WEB COPY

Crl.O.P.(MD)No.6185 of 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 09/03/2022

CORAM:

THE HON'BLE MR JUSTICE G.ILANGO VAN

Crl.O.P.(MD)No.6185 of 2019

Vallinayagi : Petitioner/Petitioner

Vs.

1.Shanmugasundaram

2.Karunavathi

3.Nambi

4.Assistant Engineer,

Ittamozhi Electricity Office, (TNEB Office)

Ittamozhi,

Thisayanvilai Taluk,

Tirunelveli District.

: Respondents/Respondents

Prayer: Criminal Original Petition is filed under Section 482 Cr.P.C., to call for the records from the lower court and to set aside the order passed by the Special Judicial Magistrate (Special Court for Land Grabbing Cases) (JM-II), Tirunelveli, Tirunelveli District, in his Crl.M.P.No.152 of 2019, dated 25/03/2019 and consequently allow the petition filed by the petitioner and to proceed the case in accordance with law.

For Petitioner	: Mr.V.Kathirvelu Senior counsel for Mr.V.Balasubramanian
For 1 st Respondent	: Mr.A.R.Kannappan
For 2 nd Respondent	: No appearance
For 3 rd Respondent	: Mr.T.Palanisamy
For 4 th Respondent	: Mr.B.Ramanathan

O R D E R

This criminal original petition has been filed by the petitioner seeking to set aside the order passed by the Special Judicial Magistrate (Special Court for Land Grabbing Cases) (JM-II), Tirunelveli, Tirunelveli District, in Crl.M.P.No.152 of 2019, dated 25/03/2019 and consequently allow the petition filed by the petitioner and to proceed the case in accordance with law.

<https://hcservices.ecourts.gov.in/hcservices/>



2.The petitioner filed a complaint in Crl.M.P No.152 of 2019 under section 156(3) Cr.P.C before the trial court with the following averments:-

The first respondent has encroached the property, which belongs to the petitioner and also put up a construction of house. The assessment of house tax was made by the respondents 2 and 3. They have collected the property tax also. The 4th respondent without following the procedure has given electricity connection. So all the accused persons colluded with each other. Because of the above said collusion only, the first respondent has encroached the property, put up a construction and all the basic amenities have been provided apart from the assessment of the property and house tax.

3.Seeking direction to register a case, the above said petition has been filed. The trial court, after going through the complaint, in a cryptic order dismissed the complaint stating that it is purely a civil dispute between the first respondent and the petitioner and absolutely, no materials are available to implicate the official respondents into the dispute and if really the petitioner is aggrieved by any of the final proceedings or enquiry that have been undertaken by the official respondents, she can very well take appropriate proceedings. So on that score that was dismissed.

4.Challenging the same, this criminal original petition is filed mainly on the ground that a petition under section 156(3) Cr.P.C if filed by a party, the concerned Magistrate should forward the same to the concerned police for appropriate action. The Magistrate ought not to have dealt the matter at the preliminary stage and recorded such a finding.

5.For that purpose, the learned Senior Counsel appearing for the petitioner would rely upon various judgments. It is the contention on the part of the respondents that it is purely a civil dispute between the petitioner and the first respondent, in which the official respondents have no rule. The order that has been passed by the Magistrate is perfectly valid. They also relied upon various judgments. .But in the facts and circumstances of this case, I am of the considered view that those judgments need not be considered at this stage. The only point to be decided is whether section 482 Cr.P.C will lie or not.

6.As rightly contented by the respondents, since final order that has been passed by the trial court only criminal revision will lie. So whether the complaint has been filed by following the proper procedures as set out by the Hon'ble Supreme Court in the case of Priyanka Srivastava and others Vs. State of U.P and others 2015(3) CTC 103, I am of the considered view that liberty can be



proper revision petition, for which also the learned Senior counsel appearing for the petitioner is agreeable.

7. In view of the above facts, The petition is dismissed of course with the above said liberty. Accordingly, this criminal original petition is **dismissed** with liberty to the petitioner to file revision petition, if so advised.

Sd/-

Assistant Registrar ()

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

er

Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

TO:

The Special Judicial Magistrate
(Special Court for Land Grabbing Cases) (JM-II),
Tirunelveli,
Tirunelveli District.

+1 CC to M/s.B.RAMANATHAN, Advocate (SR-11408[F] dated 11/03/2022)

Crl.O.P. (MD)No.6185 of 2019

09/03/2022

SS(CO)

GC(24.03.2022) 3P 3C