



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON : 03.01.2022

DELIVERED ON : 20.01.2022

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THE HONOURABLE MRS. JUSTICE R. THARANI

Crl. R.C.(MD)No.325 of 2019

P.Murugaiah

.. Revision Petitioner/Petitioner

Vs.

1.P.Manoharan

2.Puyalrani

3.Ganesan

4.Mariyammal

5.S.Vellaisamy

6.S.Selvakumar

7.Vellaiyammal

.. Respondents

Prayer : This criminal revision case is filed under Sections 397 and 401 of Cr.P.C., to set aside the order passed in Cr.M.P.No.1181 of 2018 dated 28.06.2018 by the learned Judicial Magistrate No.II, Pudukkottai.

For Petitioner : Mr.K.Baalasundharam

For 1st Respondent : Ms.D.Saranya

For Respondents 2 to 7: Mr.M.Suresh

ORDER

This petition has been filed to set aside the order passed in Cr.M.P.No.1181 of 2018 dated 28.06.2018, on the file of the learned Judicial Magistrate No.II, Pudukkottai.

2.The case of the petitioner is that the petitioner has filed a petition under Section 156(3) of Cr.P.C., and that petition was rejected by the learned Judicial Magistrate No.II, Pudukkottai. Against the same, the petitioner has preferred this revision case.



3. On the side of the petitioner, it is stated that the petitioner has filed a private complaint. Instead of considering whether cognizable offence was made out, the trial Court has rejected the petition. Only a cryptic order was passed by the trial Court. Only reason stated is that the complaint was filed only after 20 years of the sale. The trial Court failed to consider whether any cognizable offence was made out and the case is to be remitted back to the trial Court to find out whether there is any cognizable offence is made out.

4. On the side of the first respondent, it is stated that there was oral partition between the petitioner and the first respondent. The respondents 2 to 7 are the purchasers from the first respondent and they are in possession of the property and prayed the petition to be dismissed.

5. On the side of the respondents 2 to 7, it is stated that the respondents 2 to 7 purchased the property from the first respondent between the year 1992 till 1994. They are in possession of the property. In the year 2018, the revision petitioner has filed a complaint without failing a civil case. Though having knowledge of the transaction, the revision petitioner has come forward with the criminal case and the same was rightly rejected by the trial Court and prayed the petition to be dismissed.

6. On the side of the petitioner, it is further stated that already a civil suit was filed and a decree was obtained in favour of the petitioner. There is no necessity for the petitioner to file another civil suit.

7. A verification of the records reveals that the revision petitioner failed to file a copy of the judgment and decree of the Sub Court in O.S.No.186 of 1995 and O.S.No.221 of 1998. Whether the respondents 2 to 7 are impleaded as parties to the suit could not be found out. Whether the civil suit is binding on the respondents 2 to 7 were not stated in the complaint. The petitioner has not filed any document to prove that he is in possession of the property. The property was sold 20 years ago. There is a civil litigation between the parties from the year 1998 onwards.

8. In the above circumstances, a vague allegation that the respondents 2 to 7 criminally intimidated the petitioner alone is not sufficient enough to prove a *prima facie* case against the respondents. Hence, there is nothing sufficient enough to interfere in the order passed by the trial Court.



9. In view of the above, this Criminal Revision Case is dismissed. The order of the learned Judicial Magistrate No.II, Pudukkottai, in Cr.M.P.No.1181 of 2018 dated 28.06.2018, is thereby confirmed.

Sd/-

Assistant Registrar(CS-III)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

Mrn

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

1.The Judicial Magistrate No.II, Pudukkottai.

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20.01.2022

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