



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 09.03.2022

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THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

Crl.R.C(MD)No.580 of 2020

V.Gopal ... Petitioner/Defacto Complainant

Vs.

1.S.Kumar

2.S.Selvaraj

3.R.Ondiveeran

4.R.Gopalakrishnan ... Respondents 1 to 4/Accused

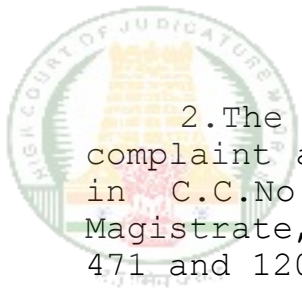
5.The Inspector of Police,
District Crime Branch,
Theni District. ... 5th Respondent/Complainant

PRAYER: Criminal Revision Case filed under Section 397(1) read with Section 401 of the Code of Criminal Procedure, to set aside the order passed in Crl.R.P.No.5 of 2019, dated 20.08.2020 on the file of the Fast Track Mahila Court (Sessions Court), Theni which was reversed in Crl.M.P.No.5807 of 2016, dated 14.12.2018 in C.C.No.166 of 2016 on the file of the learned Judicial Magistrate, Theni and allow the Criminal Revision Petition.

For Petitioner : Mr.C.Vakeeswaran
For RR 1 to 4 : Mr.D.Nallathambi
For R - 5 : Ms.M.Aasha
Government Advocate (Crl. Side)

ORDER

This revision has been filed as against the order passed in Crl.R.P.No.5 of 2019, dated 20.08.2020 on the file of the Fast Track Mahila Court (Sessions Court), Theni, thereby allowed the petition filed by the respondents 1 to 4 for discharge, reversing the order passed by the trial Court in Crl.M.P.No.5807 of 2016, dated 14.12.2018 in C.C.No.166 of 2016 on the file of the learned Judicial Magistrate, Theni, thereby dismissed the petition filed for discharge.



2.The petitioner is the complainant, who lodged private complaint and the same has been taken cognizance by the trial Court in C.C.No.166 of 2016 on the file of the learned Judicial Magistrate, Theni, for the offences under Sections 406, 420, 468, 471 and 120(b) of I.P.C.

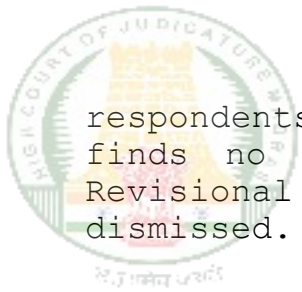
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3.The crux of the complaint is that the first respondent herein had executed a power of attorney in favour of the petitioner herein in respect of the property admeasuring 3 acres 14 cents comprised in T.S.No.18/6A situated at Chinnamanur Village, Uthamapalayam Taluk, Theni District. On the same day, the first respondent herein executed unregistered sale deed in favour of the petitioner and on the same day, the first respondent has executed general power of attorney deed in favour of the petitioner. On receipt of the entire sale consideration, namely, Rs.31,71,400/-, in pursuant to the unregistered sale deed, dated 27.06.2011 and the power of attorney, the petitioner also developed the property and sold out part of the property in favour of the third parties, including the second accused. However, unilaterally, the first respondent/first accused cancelled the power of attorney and subsequently executed power of attorney in favour of the second accused. On the strength of the said power of attorney, the second respondent herein executed sale deeds in favour of the third parties thereby cheated the petitioner to the tune of Rs.31,71,400/-.

4.Admittedly, the petitioner is not the owner of the property. The first respondent is the owner of the property and executed power of attorney.

5.Heard the learned counsel appearing for the petitioner, the learned counsel appearing for the respondents 1 to 4 and the learned Government Advocate (Criminal Side) appearing for the fifth respondent.

6.On a perusal of the records revealed that though the first respondent executed the sale deed which was not registered before the registering authority in favour of the petitioner, after receipt of the entire sale consideration, namely, Rs.31,71,400/-, no prudent man would agree after payment of entire sale consideration for execution of unregistered sale deed. Thereafter, the first respondent cancelled the general power of attorney executed in favour of the petitioner and executed another power of attorney in favour of the second respondent herein. The power of attorney can be cancelled unilaterally since the principal only executed power of attorney appointing the person as his power of attorney and as such, he can very well unilaterally cancel the power of attorney without notice and without any consent from the power holder. Therefore, there is absolutely no ingredients to attract any of the offence as taken cognizance by the trial Court under Sections 406, 420, 468, 471 and 120(b) of I.P.C. Therefore, the Revisional Court rightly discharged the petitioner in Crl.R.P.No.05 of 2019 and discharged the



respondents 1 to 4 from all the charges and as such, this Court finds no infirmity or irregularity in the order passed by the Revisional Court. Accordingly, this Criminal Revision Case is dismissed. No costs.

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Sd/-

Assistant Registrar (CS-III)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

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 Fast Track Mahila Judge (Sessions Court),
Theni.

2.The Judicial Magistrate,
Theni.

3.The Inspector of Police,
District Crime Branch,
Theni District.

4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to M/s.D.NALLATHAMBI, Advocate (SR-11309[F] dated
10/03/2022)

+1 CC to M/s.C.VAKEESWARAN, Advocate (SR-10896[F] dated
09/03/2022)

Order made in
Crl.R.C (MD) No.580 of 2020
09.03.2022

RS (21.03.2022) 3P-7C