



Crl.RC No.237 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated 14.02.2023

CORAM:

THE HONOURABLE MR.JUSTICE V.SIVAGNANAM

Crl.RC No.237 of 2023

M.Sekar

... Petitioner

Vs.

The Inspector of Police,
Namakkal Police Station,
Namakkal District.
Respondent

...

Prayer: Criminal Revision Case filed under Section 397 & 401 Cr.P.C.
to set aside the order passed in Crl.M.P.No.1262 of 2022 dated
19.07.2022 by the learned Judicial Magistrate-I, Namakkal, by
allowing the Criminal Revision Petition.

For Petitioner : Mr.Deepanuday

For Respondent : Mr.M.Manikandan, third respondent
appeared in person.



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ORDER

This Criminal Revision Case has been filed to set aside the order passed in Crl.M.P.No.1262 of 2022 dated 19.07.2022 by the learned Judicial Magistrate-I, Namakkal.

2. The petitioner's father namely Muthusamy (late) had entered into a mutual understanding with one Akilandam in the year 2014 to purchase a property measuring to an extent of 1161 ½ sq.ft. in S.No.368/17 for a sum of Rs.3,15,000/- and also he paid that amount. After receipt of the amount, the said Akilandam handed over the original title deeds to the father of the petitioner on 04.04.2005. Though the petitioner's father insisted the said Akilandam to register sale deed in his favour, she evaded the same. In such circumstances, the petitioner's father Muthusamy died on 25.01.2014. After knowing the death of Muthusamy, the said Akilandam gave a complaint before the respondent police on 06.04.2014, alleging that the original title deeds of her property were misplaced and obtained 'untraceable certificate' on 18.07.2014. Further, by using the untraceable certificate, she sold the property to one Chandrasekar, thereby she cheated the



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petitioner and his family members by committing forgery. Therefore, the petitioner gave a complaint before the Superintendent of police and other officials to take action against the said Akilandam. Since the respondent police did not take any action, the petitioner filed a petition in CMP No.1262/2022 before the Magistrate to register the complaint. The learned Magistrate dismissed the above petition, vide order dated 19.07.2022. Challenging the above order, this Criminal Revision Case has been filed.

3. The learned counsel for the petitioner submitted that despite the petitioner gave complaints, the police officials have not taken any action. Hence, the petitioner filed a petition before the Magistrate Court under Section 156(3) of Cr.P.C to direct the respondent police to register the Complaint. He further submitted that, as per Section 156(3) of Cr.P.C. without taking cognizance of the offence, the Magistrate can order for investigation and the Magistrate ought to have seen the right of a person. However, without considering the prima facie case, the Magistrate has erred in dismissing the application and hence, he prayed to set aside the above order.



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4. The learned Government Advocate(Crl.Side) appearing for the respondent submitted, the dispute between the parties is with regard to the property, which is purely civil in nature, He further submitted that after considering the entire facts of the case and the records, the Trial Court has rightly dismissed the petition and hence, he pleaded to dismiss the Criminal Revision Case.

5. Heard the learned counsel for the petitioner and the learned Government Advocate (Crl.Side) appearing for the respondent and perused the materials on record.

6. A perusal of the records reveal that the petitioner filed a petition before the Magistrate stating that his father Muthusamy entered into an agreement of understanding in the year 2004 with one Akilandam to purchase a property measuring to an extent of 1161 ½ sq.ft. in S.No.368/17 and he paid a sum of Rs.3,15,000/- towards sale consideration and the said Akilandam handed over the original title deeds to Muthusamy on 04.04.2005 and subsequently, the petitioner's



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father Muthusamy died on 25.01.2014. According to the petitioner, after death of his father, by obtaining "Untraceable Certificate" from the police with regard to title deeds, the said Akilandam sold the property to one Chanrasekar, thereby she cheated the petitioner and his family members.

7. It is to be noted that from the date of mutual agreement of understanding between Muthusamy and Akilandam till the date of death of Muthusamy, viz., from the year 2004 to 2014, nearly about 10 years, the petitioner's father Muthusamy had not taken any action for getting sale deed from Akilandam, based on the sale agreement. It is the contention of the petitioner that upon receipt of the complaint in CSR No.174/2014 from Akilandam, the respondent police gave a 'untraceable certificate' to the said Akilandam and by using the above untraceable certificate, she sold the property to one Chandrasekar on 22.08.2014. This action cannot be termed as Fraud committed against the petitioner and his father, since, according to the said Akilandam herself, the title deeds were misplaced and the same were untraceable. Therefore, commission of offence of forgery or cheating by Akilandam



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will not arise and hence, the learned Magistrate has rightly observed that there is no ingredients of criminal elements in the complaint and since the dispute between the parties being civil in nature, the petitioner has to seek remedy before the Civil Court and dismissed the complaint. As such, this Court is of the view that the order passed by the learned Magistrate does not warrant any interference by this Court and hence, the Criminal Revision is liable to be dismissed, as it has no merits.

8. Accordingly, the Criminal Revision Case is dismissed.

14.02.2023

Index:Yes/No
Internet:Yes/No
mst

To

1. The Judicial Magistrate No.I, Namakkal.
- 2.The Public Prosecutor, High Court, Madras.



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V.SIVAGNANAM, J.

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