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Crl.R.C.No.265 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 15.06.2023

PRONOUNCED ON: 22.06.2023

CORAM

THE HONOURABLE MR. JUSTICE V.SIVAGNANAM

Crl.R.C.No.265 of 2023

V.K.Venkatachalam

...

Petitioner

/vs/

1.Vijayamoorthy

2.G.Aijaykarthick

3.The Sub Inspector of Police,

Gobi Police Station,

Gobichettipalayam

Erode District.

...

Respondents

PRAYER : Criminal Revision Case has been filed under Sections 397 r/w 401 of Code of Criminal Procedure to set aside the Crl.M.P.No.6102 of 2022 by the Judicial Magistrate Court No.1, Gobichettipalayam, Erode District dated 25.11.2022 in connection with the petitioner complaint dated 08.09.2022 on the file of the Sub Inspector of Police, Gobi Police Station, Gobichettipalayam and direct the 3rd respondent to register a complaint against the respondents.

For Petitioner

...

Mr.V.Subramanian
for Mr.S.P.Yuaraj

For Respondent
Nos.1& 2

...

Mr. N.Manoharan

For Respondent
No.3

...

Mr.R.Vinothraja
Govt. Advocate (crl.side)



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ORDER

Challenging the impugned order dated 25.11.2022 passed in Crl.M.P.No.6102 of 2022 by the Judicial Magistrate Court No.1, Gobichettipalayam, Erode District, the present criminal revision case has been filed.

2.The fact of the case is that the petitioner filed a petition in Crl.M.P.No.6102 of 2022 under Section 156(3) Cr.P.C. for filing FIR and to file final report before the learned Judicial Magistrate No.I, Gobichettipalayam, Erode District. In the complaint, it is alleged that his father V.P.Kaliappan got property in 4.ஏ.6.58, க.ச.நெ.192/5, 192/8, 193/1, 193/2 in Modachoor Village, Gobi Taluk, by way of the settlement deed vide document No.1512 of 1973 and by way of sale deed vide document No.399 of 1980. With regard to a portion of property, his father executed a registered Will vide document No.16 of 1991 in favour of his mother Sembayaal on 15.03.1991 till her life time and after her life time, it will go to the petitioner and his brother. After the death of his father, the petitioner, his mother and his brother made a registered partition



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deed dated 14.10.2009 vide document No.2801 of 2009. Knowing this fact, the first and second respondents/accused, who are his sister and her son, made an unregistered gift settlement deed with the help of one advocate and based on that gift settlement deed, the first respondent filed a suit in O.S.No.17 of 2020 before the District Munsif Court, Gobichettipalayam, against the second respondent for declaration and injunction. Then referred the matter to Lok Adalat and colluded themselves, got a Lok Adalat Award No.43 of 2020 dated 08.02.2020, against which, the petitioner, his mother and his brother filed C.R.P.(NPD)No.65 of 2021 before this Court to set aside the Award of Lok Adalat. This Court by its order dated 20.07.2021 allowed the CRP and set aside the Lok Adalat Award No.43 of 2020 dated 08.02.2020 passed by the Taluk Legal Services Committee, Gobichettipalayam with reference to O.S.No.17 of 2020 and also set aside the documents created in pursuance of the Award. Since the first and second respondents/accused created forged documents in order to grab the land of the petitioner, the petitioner has filed the complaint. The learned Judicial Magistrate by its order dated 25.11.2022 in Crl.M.P.No.6102 of 2022 dismissed the complaint as it is not



maintainable and also stated that the alleged fraud committed in the Court, hence, by invoking Section 340 Cr.P.C., action has to be taken, so, private complaint is not maintainable. Aggrieved by this, this criminal revision case has been filed.

3.The learned counsel for the petitioner submitted that the trial Court, without considering the real fact and circumstances, dismissed the complaint and passed the impugned order, which is contrary to law. He further submitted that the trial Court failed to appreciate that the accused committed fraud against the petitioner by producing forgery document before the Court and the documents have been forged out of the Court. Therefore, the petitioner has every right to give the complaint before the learned Judicial Magistrate, which is overlooked by the Court.

4.To support his argument, the learned counsel for the petitioner placed reliance on the judgements reported in ***(2005) 4 Supreme Court Cases 370, (Iqbal Singh Marwah and another Vs. Meenakshi Marwah and another), (ii) (2017) 1 Supreme Court Cases 113 (Amarsang Nathaji***



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Vs. Hardik Harshadbhai Patel) and (iii) (2019) 3 Supreme Court Cases

318 (Narendra Kumar Srivastava Vs. State of Bihar and others).

5.The learned counsel appearing for the first and second respondents supported the order of the learned judge and further submitted that this Court by its order dated 20.07.2021 in C.R.P.(NPD) No.65 of 2021 set aside the Lok Adalat Award dated 08.02.202 in Award No.43/ 2020 passed by the Taluk Legal Services Committee, Gobichettipalayam with reference to O.S.No.17 of 2020 and also reversed the revenue records and restored the suit in O.S.No.17 of 2020 on the file of the District Munsif Court, Gobichettipalayam to proceed further in the manner known to law. Therefore, at the stage, one cannot conclude that the documents have been fraudulently created, therefore, pleading to dismiss the criminal revision case.

6.Heard the learned Government Advocate (Crl.side) appearing for the third respondent.



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7.I have considered the matter in the light of the submissions made by the learned counsel for the petitioner as well as the learned counsel for the respondents.

8.On perusal of the records, it is seen that the petitioner filed a petition in Crl.M.P.No.6102 of 2022 under Section 156(3) Cr.P.C. for filing FIR and to file final report before the learned Judicial Magistrate No.I, Gobichettipalayam, Erode District. In the complaint, it is alleged that his father V.P.Kaliappan got property in 4.ஏ.6.58, க.ச.நெ.192/5, 192/8, 193/1, 193/2 in Modachoor Village, Gobi Taluk, by way of the settlement deed vide document No.1512 of 1973 and by way of sale deed vide document No.399 of 1980. With regard to a portion of property, his father executed a registered Will vide document No.16 of 1991 in favour of his mother Sembayaal on 15.03.1991 till her life time and after her life time, it will go to the petitioner and his brother. After the death of his father, the petitioner, his mother and his brother made a registered partition deed dated 14.10.2009 vide document No.2801 of 2009. Noting this fact, the first and second respondents/accused, who are his sister and her son,



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made an unregistered gift settlement deed with the help of one advocate and based on that gift settlement deed, the first respondent filed a suit in O.S.No.17 of 2020 before the District Munsif Court, Gobichettipalayam, against the second respondent for declaration and injunction. Then referred the matter to Lok Adalat and colluded themselves, got a Lok Adalat Award No.43 of 2020 dated 08.02.2020, against which, the petitioner, his mother and his brother filed C.R.P.(NPD)No.65 of 2021 before this Court to set aside the Award of Lok Adalat. This Court by its order dated 20.07.2021 allowed the CRP and set aside the Lok Adalat Award No.43 of 2020 dated 08.02.2020 passed by the Taluk Legal Services Committee, Gobichettipalayam with reference to O.S.No.17 of 2020 and also set aside the documents created in pursuance of the Award.

9.Further, it is noticed that this Court in para No.4 of its order dated 20.07.2021 in C.R.P.(NPD)No.65 of 2021 observed that ***“I would, therefore, interfere with the award passed, and set aside the same and restore O.S.No.17 of 2020 to the file of the Principal District Munsif Court, Gobichettipalayam, to proceed further, in manner known to law.*”**



Let the Principal District Munsif also enquire the plaintiff and the defendant whether there are any other legal representatives. I would throw a word of caution to the Principal District Munsif to be a little more careful while dealing with suits of this nature, particularly when collusion is evident on the face of the record. No further objections are required. ”

10.Further, the allegation in the complaint filed by the petitioner is that the accused persons, based upon the unregistered settlement deed created by them, filed the suit in O.S.No.17 of 2020 before the District Munsif Court, Gobichettipalayam, then, the matter is referred to Lok Adalat and by playing fraud in the Court, obtained Lok Adalat Award No.43 of 2020 on 08.02.2020. There is no evidence that the accused created any forgery documents out of the Court. Executing unregistered settlement deed between the accused persons is per se no offence and they have not committed any forgery. The acquisition based upon the document, they obtained Lok Adalat Award, which is a fraud played upon the Court. Therefore, the learned Judge rightly mentioned for the fraud played upon the Court, private complaint is not maintainable.



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Therefore, the decisions relied upon by the learned counsel for the petitioner in support of his case is not relevant to the fact of this case.

11.Further, this Court, while setting aside the Lok Adalat Award No.43 of 2020 dated 08.02.2020, by its order dated 20.07.2021 restored the suit in O.S.No.17 of 2020 on the file of the Principal District Munsif Court, Gobichettipalayam, Erode District, to proceed further in the manner known to law. Under these circumstances, there is no criminal element in filing the civil suit in O.S.No.17 of 2020 by the accused persons for declaration and injunction with regard to the disputed property. Therefore, the criminal complaint filed by the petitioner under Section 156(3) has no merit and the trial Court rightly dismissed the complaint. No reason to interfere with the reasoned order passed by the learned Judge and no merit in the criminal revision case. Accordingly, the criminal revision case is dismissed.

Index : Yes/No
Internet : Yes/No
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22.06.2023



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- 1.The Judicial Magistrate Court No.1,
Gobichettipalayam, Erode District.
- 2.The Sub Inspector of Police,
Gobi Police Station,
Gobichettipalayam
Erode District.
- 3.The Public Prosecutor,
High Court, Madras.



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V.SIVAGNANAM ,J.

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Pre-delivery order made in
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