



Crl.O.P.No.22568 of 2022

In the High Court of Judicature at Madras

Dated : 25.7.2023

Coram :

The Honourable Mr.Justice N.ANAND VENKATESH

Criminal Original Petition No.22568 of 2022

S.Pushpam

...Petitioner

Vs

Vasanthamani

...Respondent

PETITION under Section 482 of the Criminal Procedure Code praying to direct the Registrar General of this Court to present a complaint under Section 340 of the Criminal Procedure Code to investigate the matter with all seriousness to bring all those persons into the dragon net of the investigation and punish them in accordance with law.

For Petitioner : Mr.R.Ganesan
For Respondent : Mr.S.T.Bharath Gowtham

ORDER

This criminal original petition has been filed seeking to direct the Registrar General of this Court to present a complaint under Section



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340 of the Criminal Procedure Code (for short, the Code).

2. Heard the learned counsel for the petitioner and the learned counsel appearing for the respondent.

3. The case of the petitioner is as follows :

(i) The petitioner is the third plaintiff in O.S.No.461 of 1994 on the file of the First Additional Subordinate Court, Coimbatore. She, along with two others, filed the said suit seeking the relief of partition and separate possession against nine defendants. In the said suit, the husband of the respondent herein was arrayed as the second defendant. The said suit was decreed on 25.8.1998.

(ii) As against the judgment and decree of the Trial Court dated 25.8.1998, the husband of the respondent herein namely the second defendant alone filed an appeal before this Court in A.S.No.434 of 1999, in which, he was represented by the respondent herein in her capacity as the power of attorney agent. The said appeal was disposed of by judgment and decree dated 22.6.2009 pursuant to a compromise arrived at between the parties.

(iii) For proper appreciation, the said judgment dated 22.6.2009



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is extracted as hereunder :

"The compromise petition in C.M.P.No.491 of 2009 was filed. In the said petition, the deed of compromise dated 30.8.2008 was also enclosed. Perused. The parties who entered into compromise namely the plaintiffs 1 to 3 and defendants 1 to 3 were present in court and had admitted the compromise entered into between them on 30.8.2008. Since the parties to the suit and parties to the compromise deed dated 30.8.2008 had admitted compromise, it has become necessary to allow the petition filed by the parties seeking to record compromise. Accordingly, the compromise reached in between parties is recorded.

2. In pursuance of recording compromise in the petition in C.M.P.No.491 of 2009, the judgment and preliminary decree passed by the lower Court are liable to be set aside. Accordingly, they are set aside and the appeal is allowed and a final decree is passed in the suit in terms of the compromise reached in between the parties. The parties are directed to bear their respective costs. The compromise deed entered into between the parties on 30.8.2008 shall form part of the compromise decree."

(iv) However, the petitioner herein moved this criminal original petition in the year 2022 (filed on 17.8.2022) seeking a direction to the Registrar General of this Court to present a complaint under Section 340 of the Code on the ground that the respondent herein fabricated the general power of attorney filed on behalf of her husband



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Mr.M.Shanmuga Sundaram.
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4. According to the petitioner, the said Mr.M.Shanmuga Sundaram was not heard of from 07.4.1998 onwards and hence, he could not have given a power of attorney in favour of the respondent herein. That apart, further according to the petitioner, there was no occasion for the said Mr.M.Shanmuga Sundaram to engage a lawyer and hence, the vakalat that was given by the respondent herein is non est in the eye of law. These documents are stated to be forged and fabricated documents and hence, the petitioner herein wants an action to be initiated under Section 340 of the Code.

5. In the considered view of this Court, the judgment and decree in A.S.No.434 of 1999 was passed on 22.6.2009 based on the compromise petition that was filed along with the deed of compromise dated 30.8.2008. The petitioner herein was the third respondent in the said appeal and she was represented by a counsel. Apart from the parties, their respective counsel had also signed in the memo of compromise. From the judgment of this Court dated 22.6.2009, it is seen that plaintiffs 1 to 3 as well defendants 1 to 3 were present in



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court and they had admitted the compromise entered into on 30.8.2008.

6. As stated above, the petitioner herein is the third plaintiff and she was also present before this Court when the compromise was acted upon by this Court. Hence, it is too late in the day for the petitioner herein to turn around and seek to direct the Registrar General of this Court to initiate action under Section 340 of the Code. Admittedly, the petitioner herein had not questioned the judgment and decree dated 22.6.2009 passed in A.S.No.434 of 1999 till date.

7. The above criminal original petition is frivolous in nature and the petitioner herein has attempted to reopen an issue, which was closed in the year 2009. This Court does not find any ground to grant the relief sought for by the petitioner. The order relied upon by the learned counsel for the petitioner herein in the case of ***R.Murugesan Vs. Subordinate Judge, Namakkal [W.P.No.4145 of 2016 dated 29.2.2016]***, which was rendered by a learned Single Judge of this Court, will have no application for the facts of the present case.

8. In the light of the above discussions, this criminal original



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petition lacks merits and is, accordingly, dismissed.
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To

- 1.The Registrar General, High Court, Madras.
- 2.The Public Prosecutor, High Court, Madras.

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N.ANAND VENKATESH,J

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