



Crl.R.C.No.1967 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.11.2023

CORAM

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

Crl.R.C.No.1967 of 2023

R.Padmanabhan

... Petitioner

Vs.

1.V.Mani

2.V.Arumugam

... Respondents

Prayer: Criminal Revision Petition filed under Sections 397 r/w. 401 of Criminal Procedure Code, to set aside the impugned order passed by the Judicial Magistrate Court, Uthangarai in Crl.M.P.No.185 of 2022 dated 27.06.2023 and direct the Judicial Magistrate, Uthangarai to pass orders on merits within a reasonable time.

For Petitioner : Mr.G.Sudangan



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ORDER

The petitioner preferred a revision challenging the order passed by the learned Judicial Magistrate, Uthangarai in Crl.M.P.No.185 of 2022 dated 27.06.2023.

2.The petitioner filed a private complaint before the Lower Court against the respondents herein. The learned Judicial Magistrate, Uthangarai by order dated 27.06.2023 dismissed the complaint observing that the dispute is civil in nature, without opting proper, efficacious, comprehensive remedy before the proper civil forum, filing this petition before this Court is not sustainable. Hence, on this aspect this petition is liable to be dismissed. Aggrieved against the same, the petitioner filed the present revision petition.

3.The learned counsel for the petitioner submitted that the respondents, Mani and Arumugam are brothers. The property situated at Panamarathur Village in Survey Nos.103/2B2, 68/1A1, 68/5A1 at Uthangarai with total of 3.82 acres of land was bequeathed to the



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complainant by his uncle Velusamy through the registered Will vide

Document No.46/2022 at SRO, Krishnagiri and petitioner is in possession

and enjoyment of the property. The said Mani and Arumugam created a

forged partition deed dated 09.02.2007 and using the said forged document

they obtained Patta No.266 for the property in Survey No.103/2B2 and

Patta No.438 for the property in Survey No.68/1A1 and 68/5A1. Later on

coming to know that the partition deed created by them in Document

No.2864/2007 is without any legality and they have no right over the

property, they filed cancellation of Partition Deed in Document No.56/2011

in which these facts recorded. Thereafter, the petitioner approached the

revenue authorities to cancel the Patta obtained by the said Mani and

Arumugam. The Revenue Divisional Officer in Na.Ka.1057/2020/G dated

06.03.2020 and Na.Ka.2514/2020/B3 dated 07.07.2020 cancelled both the

Pattas. The said Mani and Arumugam were aware of the cancellation of

their Pattas and knowing that the Patta has got no relevance, using the same

as genuine applied for loan in Kallavi Primary Agriculture Co-operative

Society and obtained Rs.90,000/- as loan each. Thereafter, they failed to

repay the same and cheated the Society. Now the Society is taking coercive



steps against the petitioner and his property to recover the said loan which is not proper.

4.Learned counsel for the petitioner would further submit that the petitioner earlier lodged a complaint to the jurisdictional police who failed to act on the complaint and thereafter only, the above private complaint was filed. The Lower Court failed to consider these aspects wherein on the face of it prima facie cognizable offence has been made out. The offence of forgery, using the forged document, misappropriating and cheating the Society fund have been committed by the respondents but the Lower Court dismissing the complaint is otherwise. He further referred to the order passed by the Lower Court and submitted that nowhere the Lower Court referred to any of these documents and given a finding despite all the documents were produced before the Lower Court.

5.Considering the submissions made and on perusal of the materials, it is seen that the order passed by the Lower Court is bereft of any particulars with regard to partition deed, cancellation of partition deed which



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are registered documents and thereafter cancellation of patta issued in the name of the respondents. These documents were created on the petitioner's property has been proved. Thereafter, the respondents using the forged documents availed loan which would clearly prove that offence of forgery and using of forged documents has been made. These facts have been lost sight by the Lower Court. In view of the same, the order passed by the learned Judicial Magistrate, Uthangarai in Crl.M.P.No.185 of 2022 dated 27.06.2023 is set aside. Further, the learned Judicial Magistrate, Uthangarai is directed to examine the petitioner, consider the documents and pass appropriate orders.

6. With the above direction, the criminal revision petition stands allowed.

22.11.2023

Index : Yes/No
Speaking Order/Non Speaking Order
Neutral Citation: Yes/No
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M.NIRMAL KUMAR, J.

cse

To

The Judicial Magistrate,
Uthangarai.

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