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CrI.R.C.No.1705 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.10.2023

CORAM

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

CrI.R.C.No.1705 of 2023

Mrs.Sugunabai, Power Agent,
Wife of Royappan, Representing for
Mrs.R.Malini Maria Mascarenhas,
Daughter of Late Mr.Roger Mascarenhas,
Wife of Ambrose Stanley,
No.6/11, West Avenue Road,
Kodambakkam, Chennai – 600 024.

... Petitioner

Vs.

1.The Commissioner of Police,
Tambaram Police Commissionerate Officer,
Sholinganallur, Chennai – 119.

2.The Inspector of Police,
Central Crime Branch,
Anti Landh Grabbing Special Cell,
Tambaram Police Commissionerate Officer,
Sholinganallur, Chennai – 119.

... Respondents

PRAYER: Criminal Revision is filed under Section 397 r/w 401 of the Code of Criminal Procedure, to set aside the dismissal order dated 25.07.2023, made in CrI.M.P.No.963/2023 passed by the Judicial Magistrate Court No.I, Tambaram and consequently allow the CrI.M.P.No.963/2023 for direction.

For Petitioner	:	Mr.K.Senthil Kumar
For Respondents	:	Mr.A.Damodaran, Additional Public Prosecutor



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ORDER

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This Criminal Revision Case has been filed to set aside the dismissal order, dated 25.07.2023, made in Crl.M.P.No.963 of 2023 passed by the learned Judicial Magistrate Court No.I, Tambaram.

2.The petitioner is the power agent of one R.Malini Maria Mascarenhas lodged a complaint to the respondents on 15.12.2022. Since no action taken, she filed a petition under Section 156(3) Cr.P.C., before the learned Judicial Magistrate No.I, Tambaram in Crl.M.P.No.963 of 2023. The learned Magistrate entertained the petition and finally *vide*, dated 25.07.2023 dismissed the same finding out the criminal score is given to civil dispute. As against the dismissal order, the present criminal revision case has been filed.

3.The contention of the petitioner is that in this case, one Vijayakumar, Ananda Raj, Elumalai and Baskar created forged documents, using the same, are attempting to usurp the property of the principal of the petitioner situated at plot No.198, measuring an extent of 2400 sq.ft., Vivekananda Nagar, Chitlapakkam village, Sholinganallur



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Taluk, Chennai. One K.M.Jayanthi, the mother of R.Malini Maria Mascarenhas, purchased the property for valid consideration from N.Anbalagan, by way of a registered sale deed, dated 16.11.1987 registered as document No.4880 of 1987 in Sub Registrar Office, Tambaram. The said K.M.Jayanthi passed away on 18.04.1994 and her husband passed away on 03.01.2009. Thereafter, one Harun G.Mascarenhas and R.Malini Maria Mascarenhas are their only legal heirs to the above said property. During the month of September 2022, encumbrance certificate obtained and found that there have been lot of documents created in respect of plot No.198. They were shocked to see Vijayakumar executed a sale deed in favour of E.Jeyavelu, in turn, E.Jeyavelu sold the same to one Anbalagan. The said Vijayakumar after executing the sale prior to 16.11.1987, have nothing to do with the property, thereafter now it is projected as though Vijayakumar and G.Ananda Raj divided the plot No.198 into two plots, assigned plot Nos.198A and 198B each measuring 1200 sq.ft., and executed sale deeds in the name of one Elumalai and Basker through power agent Ananda Raj knowingly that the property belongs to principal of the petitioner. Thus, forgery created and using the same cheating committed.



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4.His further contention is that the petitioner produced all the documents and statements before the Court below. The Court below though recorded the same in the impugned order, but in the penultimate paragraph came to a conclusion that the issue pertains to title dispute and boundaries surrounding the land and the criminal score is given to civil dispute. On what basis such finding has been given is not known. Hence, he prayed for setting aside the order of the Court below. In support of his contention, the petitioner produced the typed set containing documents.

5.The learned Additional Public Prosecutor appearing for the respondents submitted that earlier, the petitioner lodged the complaint to the 1st respondent, which took on file on 27.12.2022 and thereafter, the same forwarded to the 2nd respondent. The 2nd respondent commenced the enquiry, issued notice to the petitioner and the petitioner appeared for enquiry on 18.01.2023. On which day, the petitioner gave an undertaking that within one week, that is 27.01.2023, she will appear for enquiry along with the original documents as sought for. Thereafter, she



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had failed to appear and the enquiry is still kept pending. In the meanwhile, she approached Court below and obtained the order of dismissal.

6.From the contention of the petitioner as well as the learned Public Prosecutor, it is seen that the forgery has been created by Vijayakumar, Ananda Raj and knowingly, using the forged documents, Elumalai and Baskar purchased the property in plot No.198 and thereafter, the same has been conveniently sub divided into two plots and assigned plot Nos.198A and 198B. The value of the property having grown manifold now such creation of documents and encumbering the properties have become common.

7.During enquiry, the petitioner produced all the documents. Though it has been narrated in the impugned order, but on what ground Court below came to the conclusion that dispute is with regard to title and boundaries is not clear.



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8.In view of the above discussion, this Court set asides the impugned order, dated 25.07.2023 passed by the learned Judicial Magistrate No.I, Tambaram in Crl.M.P.No.963 of 2023. Accordingly, this Criminal Revision Case is allowed.

9.The petitioner is directed to appear before the learned Judicial Magistrate No.I, Tambaram on 19.10.2023 along with the copy of this order. The learned Judicial Magistrate No.I, Tambaram to consider the complaint of the petitioner contemporaneously with the documents submitted and if cognizable offence is made out, pass appropriate order under Section 156(3) Cr.P.C. It is reminded that the enquiry by the 2nd respondent Police is still kept pending for want of documents.

11.10.2023

Index: Yes/No
Internet: Yes/No
Neutral Citation: Yes/No
Speaking Order/Non-Speaking Order

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To

- 1.The Judicial Magistrate Court No.I,
Tambaram.
- 2.The Commissioner of Police,
Tambaram Police Commissionerate Officer,
Sholinganallur, Chennai – 119.
- 3.The Inspector of Police,
Central Crime Branch,
Anti Landh Grabbing Special Cell,
Tambaram Police Commissionerate Officer,
Sholinganallur, Chennai – 119.
- 4.The Public Prosecutor,
High Court, Madras.



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M.NIRMAL KUMAR, J.
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