



Crl.R.C.No.1535 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.07.2023

CORAM

THE HONOURABLE MRS. JUSTICE **R. HEMALATHA**

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K.Ravi

... Petitioner

Vs.

1. Thangaraj
2. G.Shanmugavel
3. Anbazagan
4. Balaji
5. Govindraju
6. The Inspector of Police,
Tiruverkadu Police Station,
Chennai - 600 095.

... Respondents

Prayer : Criminal Revision Petition filed under Section 397 r/w. 401 of Criminal Procedure Code, to set aside the order, dated 31.10.2022 in C.M.P.No.4427 of 2022 on the file of the Judicial Magistrate No.II, Poonamallee (FAC) and consequently direct the 6th respondent Police to investigate the petitioner's complaint dated 02.05.2022 forwarded by the Commission of Police, Avadi in C.P.No.518 of 2022.

For Petitioner : Mr.S.L.Venkatesan

For Respondents : Ms.S.K.Inthu for R1 and R4

Mr.P.J.Rishikesh for R2

Mr.R.Thamariselvan for R5

No appearance for R3

Mr.R.Vinothraja,

Government Advocate (Crl. side) for R6



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ORDER

Challenging the order dated 31.10.2022 passed by the Judicial Magistrate II, Poonamalee (FAC) in C.M.P.No.4427 of 2022, the present Criminal Revision is filed by the petitioner/complainant.

2. The petitioner who is the complainant filed the petition under Section 156 (3) of Cr.P.C., against the respondents 1 to 5/accused as well as the Inspector of Police, Tiruverkadu Police station, Chennai. The case of the petitioner/complainant is that he executed a registered power of attorney in favour of the 1st respondent as a security for the loan amount of Rs.20 lakhs. However, the 1st respondent in pursuance of the power of attorney, sold the properties of the petitioner / complainant in favour of the 2nd respondent in which the respondents 3 and 4 have signed as witnesses. The 5th respondent is a Doctor by profession who has given Life Certificate. Originally, the petitioner/ complainant lodged a complaint with the Commissioner of Police, Avadi in C.No.518/COP-Avadi/Visitors/2022 and the same was forwarded to the Deputy Commissioner of Police, Avadi which was taken on file in C.No.543/DC Avadi/COP(V)/2022. The Deputy Commissioner of Police, Avadi in turn



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referred the same to the Assistant Commissioner, Sri Ramachandra Medical College (SRMC) and the same was taken up for enquiry in C.No.217/AC SRMC/COP(V)/2022 by the 6th respondent. After enquiry, both parties decided to settle the dispute before a competent Civil Court and therefore the 6th respondent Police closed the complaint vide proceedings dated 20.01.2023 on the ground that the matter is purely civil in nature.

3. Thereafter, the revision petitioner approached the Judicial Magistrate II, Poonamallee by way of filing a private complaint under Section 200 of Cr.P.C., The learned Judicial Magistrate II, Poonamallee vide orders, dated 31.10.2022 dismissed the application on the ground that the issue involved in the present case is civil in nature and therefore, the same cannot be decided in a Criminal Court.

4. The learned counsel for the petitioner contended that the power of attorney was executed in favour of the 1st respondent only as a security for the loan obtained by the complainant and that the 1st



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respondent had violated the clauses contained in the Power deed and sold the same in favour of the 2nd respondent. The specific contention of the learned counsel for the petitioner is that though the property is worth more than Rs.70 lakhs it was sold only for a sum of Rs.22 lakhs to the 2nd respondent.

5. The learned counsel for the respondents 1 and 4 contended that the power of attorney executed by the revision petitioner is a registered one and that through the said document, the 1st respondent was given absolute power to deal with the property including selling of the property. Therefore, the 1st respondent had sold the property in favour of the 2nd respondent as per the instructions of the complainant. It is her further contention that the property is worth about only Rs.22 lakhs and that it is not Rs.70 lakhs as contended by the learned counsel for the petitioner.

6. In any event, the issue between the parties appears to be



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purely civil in nature because it is not the contention of the petitioner / complainant that the power of attorney was executed under coercion or threat or his signature was forged by the 1st respondent. In fact, he had agreed the execution of the registered power of attorney in favour of the 1st respondent through which he has given specific powers to the 1st respondent to alienate the property in favour of any person and pursuant to the same, the 1st respondent had sold the same in favour of the 2nd respondent. In such circumstance, the petitioner / complainant can approach only a Civil Court, if so advised. Hence, the order passed by the learned Judicial Magisterial II, Poonamallee (FAC) is perfectly in order and I do not see any reason to interfere with the findings of the trial Court.

7. With the above observation, the Criminal Revision is dismissed.

25.07.2023

Index: Yes/No
Speaking/Non-Speaking order
vum

R.HEMALATHA, J.



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