



Crl.R.C.(MD)No.951 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 25.08.2023
Pronounced on : 22.11.2023

CORAM

THE HONOURABLE MR.JUSTICE K.K.RAMAKRISHNAN

Crl.R.C(MD)No.951 of 2023

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.. Petitioner/Petitioner

Vs.

1. The State rep. by
The Inspector of Police,
Anti Land Grabbing, Spl. Cell,
Thoothukudi.

.. 1st Respondent/Complainant

2. Gnanam Glory

3. Rojesh

.. 2 & 3 Respondents/Proposed Accused

PRAYER: Criminal Revision Petition has been filed under Section 397 r/w 401 of Cr.P.C., to call for the records relating to the order passed in Crl.M.P.No.565 of 2022 on the file of the learned Judicial Magistrate, Special Court for Land Grabbing, Thoothukudi dated 19.09.2022 and set aside the same.



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For Petitioner : Mr.C.Ezhilarasu
For Respondents : Mr.R.Sivakumar,
Government Advocate(Crl.Side)
for R1
: Mr.B.Jeyakumar for R2
: Mr.R.Anand for R3

ORDER

The petitioner filed this revision challenging the dismissal order dated 19.09.2022 passed by the learned Judicial Magistrate, Special Court for Land Grabbing, Thoothukudi, in Cr.M.P.No.565 of 2022.

2. The petitioner made the allegation against the private respondents stating that they forged the documents and entered the sale in favour of the second respondent. According to the petitioner, the petitioner's father and his father's four brothers jointly purchased the properties in the year 1958 to 1961. They purchased the properties in Survey No.33/1, 33/3 and 33/7 to the extent of 8 acres 69 cents in the Perungulam the village. Without any partition, they are said to have created the Patta and on the basis of the Patta, the first petitioner executed the settlement deed in favour of the first defendant/wife. On the



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basis of the settlement deed, the first respondent executed a sale deed in favour of the second respondent. On the basis of the said sale deed, they illegally trespassed into the said land and caused damage worth of Rs. 1,00,000/- and also caused obstruction to the possession of the petitioner. In the said circumstances, they filed the complaint before the jurisdictional police. The jurisdictional police did not take any action and hence they sent a complaint under Section 154(3) Cr.P.C to the District Superintendent of Police. They did not take any action on the said complaint and hence, he filed a petition before the learned Judicial Magistrate for the offence under Section 156(3)Cr.P.C. The learned Judicial Magistrate directed the jurisdictional police to register the case and conduct the enquiry. The jurisdictional police registered a case under Sections 420, 468, 471, 120B and 506(ii) IPC and 3 of the Tamilnadu Public Property Damages Act. After the registration of the case, they conducted the enquiry and filed the report before the learned Judicial Magistrate. In the said report, they specifically stated that the petitioner filed the suit in O.S.No.120 of 2022 for the partition and hence, the property dispute is pending between the parties. Even as per the suit, the petitioner filed the suit for partition is baseless. In the said



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circumstances, the allegation is baseless. On the basis of the said negative report, the learned Magistrate dismissed the complaint. Therefore, they filed the present revision challenging the impugned order dated 19.09.2022. The learned counsel for the petitioner submitted that they created a document and a false record and entered into sales transaction. Hence, they are liable for prosecution. He further submitted that they entered into the motor room and caused damages to the motor to the extent of Rs.1,00,000/- In the said circumstances, the offence was clearly made out. But, the learned Judicial Magistrate dismissed the same observing that there is no *prima facie* case was made out. In the said circumstances, the order of the learned Judicial Magistrate is liable to be set aside.

3. This Court has considered the submission of the learned counsel for the petitioner and the learned counsel for the third respondent and perused the records.

4. The petitioner is one of the co-owner of the properties situated in the suit schedule property in Survey No.120 of 2022. He filed a suit



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for partition. In the said circumstances, the allegation that the second and third respondents entered into the motor room is in civil nature. All are entitled to equal share in the property even as per averment in the plaint. In the said circumstances, the learned trial Judge rightly dismissed the petition. The investigating agency also conducted a detailed enquiry and found that all are have the equal rights in the suit property and one of the co-owner is entitled to execute the sale deed for his share alone. In the said circumstances, there is no criminality in the execution of the sale deed and the interference in the possession of the other co-owner. In the said circumstances, there is no ingredients to prosecute the respondents and hence, the learned trial Judge correctly dismissed the petition. Hence, this Criminal Revision Petition is dismissed.

22.11.2023

NCC : Yes/No
Index : Yes/No
Internet: Yes/No

PJL



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1. The Judicial Magistrate,
Special Court for Land Grabbing,
Thoothukudi.
2. The Inspector of Police,
Anti Land Grabbing, Spl. Cell,
Thoothukudi.
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.
4. The Section Officer,
Criminal Section(Records),
Madurai Bench of Madras High Court,
Madurai.



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K.K.RAMAKRISHNAN, J.

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Pre-delivery Order made in
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