



Crl.R.C.(MD) No.535 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 27.06.2023

CORAM:

THE HONOURABLE MR.JUSTICE K.MURALI SHANKAR

Crl.R.C.(MD)No.535 of 2023

Selvaraj P Rayer

: Petitioner

Vs.

1.State rep.by
The Inspector of Police
DCB (ALGSC),
Thoothukudi.
Crime No. 26 of 2016.

2.Lilly

3.Diminic Selastin

4.Danapaul

5.Nepolian John Britto

: Respondents

Prayer : This Criminal Revision has been filed under Section 397 and 401 of Criminal Procedure Code, to call for the records pertaining to the order dated 08.06.2022 made in Cr.M.P.No.93 of 2022 passed by the Special Court of Land Grabbing Cases, Thoothukudi and set aside the same.

For Petitioner : Mr.A.Robinson



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For Respondents : Mr.SS.Madhavan,
Government Advocate (Criminal Side)
for R1.

: No Appearance, for R2

: Mr.T.Wins, for R3 to R5

ORDER

The Criminal Revision Case is directed against order passed in Cr.M.P.No.93 of 2022, dated 08.06.2022, on the file of the Special Court of Land Grabbing Cases, Thoothukudi, closing the FIR.

2. On the basis of the complaint given by the petitioner, FIR came to be registered in Crime No. 26 of 2016 against five persons for the alleged offences under Sections 419, 465, 468, 471 and 420 IPC. The first respondent, after completing the investigation, has filed a final report, dated 03.02.2022 as undetected. The petitioner/defacto complainant, after receipt of RCS notice, has filed a protest petition before the jurisdictional Court and the same was taken on file in Cr.M.P.No.93 of 2022. The learned Magistrate has passed the impugned order as “Complainant stated that he has objection, hence, this complaint is closed with liberty to file private complaint.”



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3. The main contention of the defacto complainant is that he had permitted his mother-in-law to live in the house property, which is owned by him and went abroad and that subsequently, he came to know that his mother-in-law created power of attorney deed, dated 29.03.1982 as if, the same was executed by the petitioner; that on the basis of the power of attorney deed, she has executed a sale deed, dated 26.03.2015 in favour of his son vide document No.773 of 2015 and that after coming to know about the above documents, he has preferred the above complaint.

4. The first respondent in the final report has stated that since the executants of the document No.1648 of 1981 were already dead and the address of the witnesses were not clear, they were not able to trace out the person, who had impersonated the complainant and that in view of the opinion obtained from the Public Prosecutor, final report came to be filed as undetected.

5. As rightly contended by the learned counsel for the petitioner, though the complainant has specifically alleged that he was not in India at the time of execution of power of attorney deed, the first respondent has not taken any steps to verify the same and they have also not taken any steps to get the original power of attorney deed and sale deed.



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6. Considering the facts and circumstances of the case, this Court is of the clear view that the investigation conducted by the first respondent is not in proper and the learned Magistrate without considering the records in proper perspective, closed the FIR by giving liberty to the defacto complainant to file a private complaint. Hence, the impugned order passed by the learned Magistrate is liable to be set aside.

7. In the result, the Criminal Revision Case is allowed and the impugned order, dated 08.06.2022 in Cr.M.P.No.93 of 2022 on the file of the Special Court of Land Grabbing Cases, Thoothukudi, is set aside and the first respondent is directed to conduct further investigation and file a final report within two months from the date of receipt of copy of this order.

27.06.2023

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

To

- 1.The Special Court of Land Grabbing Cases,
Thoothukudi.
- 2.The Section Officer, Criminal Section,
Madurai Bench of Madras High Court, Madurai.



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K.MURALI SHANKAR, J.

das

ORDER MADE IN
Crl.R.C.(MD)No.535 of 2023

27.06.2023