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CrI.R.C.No.407 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.06.2024

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

CrI.R.C.No.407 of 2024

V.Dhamodharan
Rep. by his power agent
P.G.Ranganathan

... Petitioner

Vs.

1.G.Thamizhmani
2.B.Subramaniam

... Respondents

Prayer:

Criminal Revision Case filed under Section 397 r/w 401 of Criminal Procedure Code, seeking to set aside the order passed in C.M.P.No.323 of 2020 on the file of learned Judicial Magistrate Court – II, Udumalpet dated 26.10.2022.

For Petitioner : Mr.M.N.Balakrishnan
For Respondents : Mr.K.V.Muthuvisakan for R1

ORDER

The criminal revision case has been filed seeking to set aside the order dated 26.10.2022 passed in C.M.P.No.323 of 2020 by the learned Judicial Magistrate Court – II, Udumalpet.



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2.The case of the petitioner is that the petitioner is a non resident of India and is residing in Newzealand and he executed general power of attorney in favour of one P.G.Ranganathan on 12.10.2018. During the year 2003, the petitioner borrowed a sum of Rs.60,000/- from one Tamizhmani wife of Ganesan and was paying interest for the same, however, during the year 2007 due to some unavoidable reasons, the petitioner was not able to pay interest properly and the petitioner was forced to give mortgage deed in favour of Tamizhmani and one Subramaniam. On 24.12.2015, the petitioner paid a sum of Rs.14 Lakhs to Tamizhmani through the power agent P.G.Ranganathan and asked the said Tamizhmani to cancel the mortgage deed, however, the said Tamizhmani did not agree for the same. Thereafter, the petitioner came to know that the said Subramaniam instead of executing mortgage deed, executed general power of attorney in his favour and thereafter executed sale deed in favour of the said Tamizhmani. Hence the petitioner after issuing legal notice to the respondents filed the complaint under Section 200 of Cr.P.C. seeking to punish the respondents for the offence punishable under Sections 420, 423, 424, 425 of Cr.P.C. before the Judicial Magistrate Court – II, Udumalpet and the said complaint was



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dismissed on 26.10.2022. Challenging the same, the petitioner has filed this revision.

3.The learned counsel appearing for the petitioner submitted that at the time of taking cognizance of the case, the Court below has to consider whether there is any *prima facie* case made out. In the present case, the Court below without considering the factual aspects, dismissed the complaint, which is not sustainable one.

4.The learned counsel appearing for the first respondent submitted that the petitioner executed sale deed in favour of the petitioner during the year 2007 and after a lapse of several years, he made a complaint before the Court below as though his land was grabbed. The Court below after considering all the factual aspects, rightly dismissed the complaint filed by the petitioner, which warrants no interference.

5.Heard the submissions made on either side and perused the materials available on record.



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M.DHANDAPANI,J.
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6.Perusal of records reveal that the petitioner had executed sale deed in favour of the petitioner during the year 2007 and after a lapse of several years, he made a complaint before the Court below as though his land was grabbed which is not sustainable one. The Court below after considering all the factual aspects, rightly dismissed the complaint filed by the petitioner, which warrants no interference.

7.This revision is dismissed. However, this order will not stand on the way of the petitioner to work out the remedy before the competent civil Court, if law permits.

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Index: Yes/ No

Speaking Order: Yes/ No

NCC: Yes/ No

To

1.The Judicial Magistrate Court – II, Udumalpet.

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