



Criminal Original Petition No.4413 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.02.2024

CORAM

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

Criminal Original Petition No.4413 of 2024

G.Gandhimathi
W/o.V.S.Gopal

... Petitioner

Vs.

1.E.K.S.Swaminathan
S/o.Kariupana Gounder

2.S.Nallasami
S/o.Shanmuga Gounder

3.K.Yasin
S/o.Kallilur Rahman

4.Umarkayan

5.Sathik Ali
S/o.Syed Mohammed

6.R.Ravi
S/o.Rasappan

7.L.Villanga Ravi @ Ravi
S/o.Lakshmanan

8.I.Jebarulla
S/o.Inrahim



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9.S.Abdul Ali

S/o.Sayad Mohammed

10.M.Shakul Hameed

S/o.Muhammed Mustafa

11.A.Muhammad Rafiq

S/o.Abudhakir

12.K.Muhammad Sadiq

S/o.Kamaruddin

13.A.Anish Fathimaa

W/o.Abdul Sakur

... Respondents

Prayer: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure praying to set aside the order dated 17.07.2023 made in CrI.R.P.No.27 of 2022 on the file of Principal District and Sessions Court, Tiruppur, by confirming the order dated 11.08.2022 made in C.M.P.No.564 of 2021 on the file of Judicial Magistrate IV, Tiruppur.

For Petitioner : Mr.S.Suresh

ORDER

This Criminal Original Petition has been filed challenging the order passed by the Court below dismissing the criminal revision filed by the petitioner in CrI.R.P.No.27 of 2022, dated 17.07.2023, confirming the order passed in C.M.P.No.564 of 2021 by learned Judicial Magistrate IV, Tiruppur, dismissing the application filed under Section 156(3) Cr.P.C.



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2. The case of the prosecution is that the petitioner entered into an agreement of sale in the year 2008 and had also paid the entire sale consideration and was requesting for execution of sale deed in her favour. However, the accused persons were not coming forward to execute the sale deed and hence, the suit was also filed in O.S.No.107 of 2020 before the II Additional District Court, Trippur, on 27.02.2020. Thereafter, the accused person executed a sale deed in favour of third parties. This was done only to cheat the petitioner and to deprive the petitioner of the property in spite of the fact that the petitioner had paid the entire sale consideration. It is under these circumstances, a complaint was given to the police to take action. Since no action was taken, the petitioner filed an application u/s.156(3) Cr.P.C., which was dismissed by the Judicial Magistrate IV, Tiruppur and it was confirmed by the Principal District and Sessions Court, Tiruppur, in the revision. Aggrieved by the same, the present petition has been filed before this Court.

3. In the considered view of this Court, the orders passed by both the Courts below do not suffer from any illegality or infirmity. The



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petitioner filed a suit for specific performance and therefore, even if sale has been made by the owner of the property, the same can be dealt with by the civil Court itself and if ultimately, the Court is convinced that there was already an agreement of sale in favour of the petitioner and the subsequent sale has taken place without any bonafides, the relief sought for by the petitioner can always be granted. The issue that is involved in the present case is purely civil in nature and there is no question of giving it a criminal colour. Hence, both the Courts below were right in not entertaining the application filed by the petitioner. It is not as if the petitioner is left high and dry and the petitioner can always agitate her dispute in the pending suit.

Accordingly, this Criminal Original Petition is disposed of.

27.02.2024

Speaking Order/Non-speaking Order

Index :Yes/No

Neutral citation: Yes/No

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To

1.The Principal District and Sessions Court,
Tiruppur.

2.The Judicial Magistrate IV,
Tiruppur.



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N.ANAND VENKATESH, J
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