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Crl.R.C.No.176 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.03.2024

CORAM

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

Crl.R.C.No.176 of 2024

M.Ramu

S/o.Muthukumar

... Petitioner/Complainant

Vs.

1.State Rep. by

Office of the Commissioner of Police,
Avadi, Chennai – 54.

2.The Inspector of Police,

M5, Ennore Police Station,
Kathivakkam High Road,
Ennore, Chennai – 57.

... Respondents

PRAYER: Criminal Revision Case is filed under Section 397 r/w 401 of the Code of Criminal Procedure, to set aside the order passed by the learned Judicial Magistrate, Thiruvottiyur in Crl.M.P.No.4344 of 2022 dated 10.01.2023 and allow the same.

For Petitioner : Mr.G.M.Gokul Ram

For Respondents : Mr.S.Raja Kumar
Additional Public Prosecutor



ORDER

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This Court, on 15.03.2024, had passed the following order:

“The petitioner as a complainant filed a petition under Section 156(3) Cr.P.C., in Crl.M.P.No.4344 of 2022 before the learned Judicial Magistrate, Thiruvottiyur. The learned Magistrate vide order, dated 10.01.2023 dismissed the same, against which, the present criminal revision case.

2.The learned counsel for the petitioner submitted that one Mohanalakshmi and her husband Palanivel approached the petitioner and sought for a loan of Rs.9,50,000/- and the petitioner had introduced them to his friend Jeyaprakash and stood as a surety to the amount given by Jeyaprakash. The petitioner being a physically challenged person and also Professor in Arts College having no other alternative had paid back the loan to Jayaprakash. Taking advantage of the same, Mohanalakshmi and Palanivel not repaid loan to the petitioner and further created encumbrance to the property suppressing the fact of handing over the original Will. Added to it, the Sub Registrar, Thiruvottiyur had also entertained the documents filed by Mohanalakshmi and Palanivel.

3.Referring to the encumbrance certificate issued by the Sub Registrar, Thiruvotriyur, the learned counsel for the petitioner submitted that Mohanalakshmi executed a mortgage of



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the property to one Sumathi vide document No.8746 of 2014 in collusion with the registration authorities. These facts have not considered by the respondent Police as well as the Court below. The petitioner asserts that the original Will in document No.180 of 2008 is with the petitioner, hence, seeks time for producing the same before this Court.

4.In view of the above, the learned counsel for the petitioner is directed to produce the original Will in document No.180 of 2008 before this Court. In the event of petitioner producing the same, then the case against Mohanalakshmi, Palanivel and Sub Registrar, Thiruvotriyur can be seen.

5.Post the matter on 21.03.2024.”

2.In continuation and conjunction to the earlier order passed by this Court on 15.03.2024, today, the petitioner/Ramu, who is blind, appeared before this Court along with his Advocate, produced the loan documents executed by Mohanalakshmi in favour of petitioner's wife Mankani for receipt of Rs.9.5 lakhs for interest by document dated 23.06.2015. Thereafter, on 13.12.2018, the said Mohanalakshmi executed another document reiterating the earlier loan document. Further, Mohanalakshmi deposited the original Will executed by Boopalan on 30.10.2008 in Document No.180/2008. The originals are with the petitioner and the same



has been produced before this Court. Later, the petitioner came to know that prior to handing over the original Will and property documents, the said Mohanalakshmi mortgaged the said Will with one Sumathi on 03.12.2014 vide Document No.8746 of 2014, and thereafter created a forged document as though the property was settled by way of settlement deed.

3.This being so, one Umashankar executed a settlement deed for the property in S.Nos.17, 231/1 PART in the name of Mohanalakshmi as though he is settling the property in favour of his wife Chitra. Further, another portion of the property on 19.11.219, wherein the Mohanalakshmi, Umashankar and Chitra have created forged documents, which was not considered, on the other hand, the trial Court passed the impugned order. Further the respondent police though assigned CSR No.138 of 2022, closed the complaint without enquiry. Hence, the petitioner has filed a petition under Section 156(3) of Cr.P.C. before the learned Judicial Magistrate, Thiruvottiyur. The impugned order does not reflect the transactions of Umashankar, Chitra and the deposit of registered Will by Mohanalakshmi to the petitioner. The said Mohanalakshmi gets the property in S.No.231/2 of 798 square feet in Anna Nagar, Kathivakkam Village, Thiruvottiyur Taluk,



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Thiruvallur District. This property has been dealt with encumbrances created by the said Umashankar, Chitra and others. The petitioner producing the original document and receipts have also not considered.

4.In view of the above, the impugned order passed by the learned Judicial Magistrate, Thiruvottiyur in Crl.M.P.No.4344 of 2022 dated 10.01.2023 is set aside and the complaint of the petitioner in Crl.M.P.No.4344 of 2022 is restored on file.

5.The petitioner is directed to produce the original Will, Receipts, Encumbrance Certificate and any other documents in support of his contentions before the Lower Court. The petitioner is a blind person, which is to be considered and he cannot asked to run from pillar to post. The role of registration authorities in registering the documents without ascertaining the nature of the documents to be considered and if *prima-facie* case is made out, the learned Magistrate to pass appropriate orders under Section 156(3) Cr.P.C. or any other order which deems fit.



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6. With the above directions, this Criminal Revision Case is allowed.

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Speaking order/Non-speaking order

Index: Yes/No

Neutral Citation: Yes/No

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To

1. The Principal Special Judge,
Principal Special Court Under EC & NDPS Act,
Chennai.
2. The Superintendent of Police,
Central Prison,
Puzhal-I, Chennai.
3. The Inspector of Police,
PEW, Pallikaranai Unit,
Chennai.
4. The Public Prosecutor,
High Court, Madras.



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M.NIRMAL KUMAR, J.

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