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Crl.R.C.No.743 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.04.2024

CORAM

THE HONOURABLE MR. JUSTICE M.DHANDAPANI

Crl.R.C.No.743 of 2024
and Crl.M.P.No.6968 of 2024

Asothai

.. Petitioner

Vs.

1.Velmurugan
2.Varalakshmi
3.Santhi
4.Amudha
5.Ayyappan
6.Rajavel
7.Seenuvasan

.. Respondents

PRAYER: Criminal Revision Petition filed under Section 397 r/w 401 of the Code of Criminal Procedure Code, to call for the records relating to the order dated 16.08.2023 made in Crl.M.P.No.313 of 2023 in C.C.No.60 of 2023 on the file of the Learned Judicial Magistrate No.2, Kallakurichi and set aside the same by allowing this Criminal Revision Petition.

For Petitioner : Mr.N.Manoharan

For respondent : Mr.S.Mohamed Ansar for R2 to R5



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ORDER

This Criminal Revision Case has been filed seeking to set aside the order dated 16.08.2023 passed by the Learned Judicial Magistrate No.2, Kallakurichi in Crl.M.P.No.313 of 2023 in C.C.No.60 of 2023.

2. It is the case of the revision petitioner that the accused persons who are the respondents having colluded with each other executed a bogus sale deed dated 18.05.2009 in respect of the property purchased by the petitioner and attempting to evict the petitioner from the said property pursuant to which, the petitioner made a complaint to the Station House Officer, Thiagadurgam on 13.08.2020. Since no action was taken on the same, the petitioner had filed a private complaint against the respondents in Crl.M.P.313 of 2023 before the trial court for the alleged offence under sections 120(b), 467, 468, 420 of IPC which was taken on file by the trial court by taking cognizance only against the A1 & A2 while the trial court had declined to taken cognizance against A3 to A7. Aggrieved by which, the present Criminal Revision has been filed by the petitioner.



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3. Learned counsel for the petitioner would submit that this Court without going into the merits of the case may grant liberty to the petitioner to file appropriate application before the trial court during the course of trial as against the accused persons who are not taken cognizance by the trial court and the same shall be considered by the trial court.

4. On the above contention, this Court heard the learned counsel appearing for respondents 2, 5 to 7 and perused the materials available on record.

5. The revision petitioner has challenged the impugned order on the ground that no cognizance has been taken against the co-accused persons/respondents 3 to 7. However, on perusal of the impugned order, this Court is of the view that while cognizance has been taken against the A1 & A2, there is no bar for the trial court to take cognizance during the course of trial if any ingredients of offence is made out as against the other accused persons against whom cognizance has not been taken. Therefore, this Court



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without expressing any opinion on the merits of the case and without interfering with the impugned order grants liberty to the petitioner to file a petition under section 319 of Cr.P.C during the course of trial and if any such application is filed, the trial court shall consider the same on merits and pass appropriate orders.

6. Accordingly, this Criminal Revision Case stands dismissed.

Consequently, the connected Miscellaneous Petition is closed.

26.04.2024

NHS

Index : Yes/No
Speaking order : Yes/No
NCC : Yes/No

To

The Learned Judicial Magistrate No.2,
Kallakurichi



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M.DHANDAPANI, J.

NHS

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