



Crl.R.C.(MD)No.990 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 16.10.2024

Delivered on : 22.11.2024

CORAM

THE HONOURABLE MR.JUSTICE K.MURALI SHANKAR

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S.Kasidurai

... Petitioner

(Power Agent of Shakthikani and
Chandrammal)

Vs.

1.State rep.by the Inspector of Police,
DCB- 2 Thoothukudi District,
Thoothukudi.

2.Parvathi Muthuathan

3.Ilangeswaran

4.Paldurai

5.The Sub Registrar,
Tiruchendur Sub-Registrar Office (Duty on 10.07.2009)
Tiruchendur.

6.A.Ravichandran

... Respondents



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PRAYER : Criminal Revision Petition filed under Section 438 r/w 442 BNSS, to call for the records and to set aside the order passed by the learned Judicial Magistrate-IV, Thoothukudi in Crl.M.P.No.9259 of 2024, dated 25.06.2024 and direct the respondent police to register the FIR upon the compliant given by the petitioner, dated 28.02.2024 on the file of the respondent.

For Petitioner : Mr.K.Ramadurai,

For Respondent : Mr.K.Sanjai Gandhi
Government Advocate (Crl. Side)
for R1.

ORDER

The Criminal Revision is directed against the order passed in Crl.M.P.No.9259 of 2024, dated 25.06.2024, on the file of the learned Judicial Magistrate-IV, Thoothukudi, dismissing the petition filed under Section 156(3) of Code of Criminal Procedure.

2. The case of the petitioner is that the property to an extent of 21.53 cents situated in Natham S.No.272/8 of Pallipattu Village, Tiruchendur Taluk, originally belonged to Rajapandi Nadar and he died on 12.09.1989 leaving behind his legal heirs (i) Arunachi Ammal, (ii)



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Ruby Ammal, (iii) Chandra Ammal, (iv) Parvathy Ammal, (v) Parvathi Muthunathan and (vi) Shakthikani; that the said Parvathy Muthunathan executed a sale deed in favour of one Ilangeswaran on 10.07.2009 with respect to an extent of 17.34 cents in the said property vide document No.1332/2009; that the said Parvathi Muthunathan is having share of 4.30 cents, but hiding the legal heirs of Rajapandi Nadar, sold the property to Ilangeswaran and thereby grabbed the shares of the Chandra Ammal and Shakthikani; that subsequently, the said Ilangeswaran has executed three settlement deeds, dated 30.08.2012 in favour of his three sons (i) Mohanraj, (ii) Madhanraj (iii) Manoraj, with regard to 5.63 cents, 4.44 cents and 4.44 cents in S.No.272/8 vide document Nos.2170/12, 2171/12 and 2172/12 respectively; that the said Mohanraj has executed a sale deed in favour of one Pauldurai, on 08.03.2021 with regard to an extent of 5.63 cents in S.No.272/8 vide document No.753/21; that the said Ilangeswaran colluded with Parvathi Muthunathan and after fully knowing that Rajapandi Nadar had five legal heirs, fraudulently entered into documents and thereby cheated the Chandra Ammal, Shakthikani and others; that one Ravichandran, Advocate prepared the sale deed without scrutinizing the parental documents; that the Sub-Registrar,



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Tiruchendur had also joined hands with the above persons and registered the sale deed without following the procedure established by law; that the petitioner's complaint on 28.02.2024 through post to the Superintendent of Police was transferred to DCB for further investigation by the Superintendent of Police; that the respondent police called for an enquiry on 11.03.2024 and based on the request, he appeared for enquiry; that the Investigating Officer got the statement from the petitioner and informed that he would be informed later, but as of now no action was taken to find out the truth and that therefore, the petitioner was constrained to file a petition under Section 156(3) of Cr.P.C., before the jurisdictional Court.

3. The learned Judicial Magistrate has taken the petition filed under Section 156(3) Cr.P.C., on file in Crl.M.P.No.9259 of 2024 and called for a report from the Inspector of Police, DCB-II and upon perusing the petitioner's affidavit and the petition and on hearing the arguments and taking note of the police report, has passed the impugned order, dated 25.06.2024, dismissing the said petition. Aggrieved by the order of dismissal, the present revision came to be filed.



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4. The learned counsel for the petitioner would mainly contend that the learned Magistrate in his impugned order erred in observing that no IPC and other criminal Sections are not made out in the present petition; that the learned Magistrate erred in not considering the fact that the accused had share of 4.30 cents only in the scheduled property, but he sold 17.34 cents and that the accused had concealed the legal heirs of the Rajapandi Nadar and sold the property.

5. The learned Government Advocate (Criminal Side) appearing for the State would submit that the learned Magistrate upon considering the petitioner's affidavit and other records available and also taking note of the report received from the DCB-II has come to a decision that there is absolutely no basis for registering the case against the accused, dismissed the petition.

6. As rightly contended by the learned Government Advocate (Criminal Side), even according to the petitioner, son of Rajapandi Nadar by concealing the other legal heirs of his father Rajapandi Nadar had



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executed a sale deed in respect of 17.34 cents in favour of the said Ilangeswaran vide document, dated 10.07.2009; that the said Ilangeswaran had executed three settlement deeds, dated 30.08.2012 in favour of his three sons (i) Mohanraj, (ii) Madhanraj (iii) Manoraj and that the said Mohanraj had executed a sale deed in favour of one Paldurai on 08.03.2021.

7. The learned Magistrate, considering the report of DCB, has observed that Parvathy Muthunathan has not used any bogus legal heirship certificate for selling the property to Ilangeswaran; that the daughters of Rajapandi Nadar, Chandra Ammal and Shakthikani have already filed a civil suit in O.S.No.104 of 2023 and is pending on the file of the I Additional District Court, Thoothukudi and that the parties were directed to sort out their issue before the civil Court.

8. At this juncture, it is necessary to refer the judgment of the Hon'ble Supreme Court in *M/S Indian Oil Corporation vs M/S NEPC India Ltd., and Others, in Crl.A.No.834 of 2002, dated 20.07.2002*, wherein, the Hon'ble Apex Court has *deprecated* the practice of



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attempting to settle the civil disputes by applying pressure through criminal prosecution and the relevant passage is extracted hereunder:

“10. While on this issue, it is necessary to take notice of a growing tendency in business circles to convert purely civil disputes into criminal cases. This is obviously on account of a prevalent impression that civil law remedies are time consuming and do not adequately protect the interests of lenders/creditors. Such a tendency is seen in several family disputes also, leading to irretrievable break down of marriages/families. There is also an impression that if a person could somehow be entangled in a criminal prosecution, there is a likelihood of imminent settlement. Any effort to settle civil disputes and claims, which do not involve any criminal offence, by applying pressure though criminal prosecution should be deprecated and discouraged. In G. Sagar Suri vs. State of UP [2000 (2) SCC 636], this Court observed :

"It is to be seen if a matter, which is essentially of civil nature, has been given a cloak of criminal offence. Criminal proceedings are not a short cut of other remedies available in law. Before issuing process a criminal court has to exercise a great deal of caution. For the accused it is a serious



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matter. This Court has laid certain principles on the basis of which High Court is to exercise its jurisdiction under Section 482 of the Code. Jurisdiction under this Section has to be exercised to prevent abuse of the process of any court or otherwise to secure the ends of justice."

While no one with a legitimate cause or grievance should be prevented from seeking remedies available in criminal law, a complainant who initiates or persists with a prosecution, being fully aware that the criminal proceedings are unwarranted and his remedy lies only in civil law, should himself be made accountable, at the end of such misconceived criminal proceedings, in accordance with law. One positive step that can be taken by the courts, to curb unnecessary prosecutions and harassment of innocent parties, is to exercise their power under section 250 Cr.P.C. more frequently, where they discern malice or frivolousness or ulterior motives on the part of the complainant. Be that as it may."



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9.As rightly contended by the learned Government Advocate (Criminal Side), it is not the case of the petitioner that the Parvathy Muthunathan had executed a sale deed for himself and also on behalf of the other legal heirs of Rajapandi Nadar, but even according to the petitioner, Parvathy Muthunathan by concealing the other legal heirs had executed a sale deed and on that basis Ilangeswaran has purchased the property in favour of his children.

10.Admittedly, the daughters of Rajapandi Nagar have already filed a civil suit in O.S.No.104 of 2023 and the same is pending on the file of the I Additional District Court.

11. Considering the above, this Court has no hesitation to hold that the petitioner has been attempting to convert the civil dispute as a criminal dispute and such an attempt cannot be entertained. Hence, the impugned order, dismissing the petition filed under Section 156(3) of Cr.P.C., cannot be found fault with. Consequently, this Court concludes that the Criminal Revision Case is devoid of merits and the same is liable to be dismissed.



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12. In the result, the Criminal Revision Case is dismissed.

22.11.2024

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

To

- 1.The Judicial Magistrate-IV,
Thoothukudi.
- 2.The Inspector of Police,
DCB- 2 Thoothukudi District,
Thoothukudi.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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K.MURALI SHANKAR,J.

das

Pre-delivery order made in
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Dated: 22.11.2024