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Crl.R.C.No.254 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Orders Reserved on : 14.02.2025

Orders Pronounced on : 03.03.2025

Coram :

THE HONOURABLE MR.JUSTICE P.VELMURUGAN

Crl.R.C.No.254 of 2025

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S.J.Srinivasan

.. Petitioner

Vs.

1. The Inspector of Police,
DCB-ALGSC, Tiruvallur.

S.R.Subramaniam (Died – 04.03.2024)

2. R.Sivaramakrishnan

.. Respondents

Criminal Revision Case filed under Sections 397 and 401 Cr.P.C. / 438 read with 442 BNSS, 2023, praying to set aside the dismissal order dated 21.01.2025 passed by the learned Judicial Magistrate I Court – Ponneri in Crl.M.P.No.1889 of 2024 in C.C.No.39 of 2023 after calling for the records and examining the same and allow the petition filed under Section 319 Cr.P.C.



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For Petitioner : Mr.S.J.Srinivasan
Party-in-Person

For Respondents : Mr.S.Sugendran
Additional Public Prosecutor for R1

ORDER

Challenging the impugned order dated 21.01.2025 passed by the learned Judicial Magistrate–I, Ponneri in Crl.M.P.No.1889 of 2024 in C.C.No.39 of 2023, the present petition has been filed by the petitioner.

2. The brief facts of the case are as follows :

(i) The petitioner, who is claiming to be the Hereditary Trustee of the Temple – Arulmigu Kaalatheeswarar Swami Thirukoil at Sayanavaram Village, Ponneri Taluk, Tiruvallur District, had filed a petition dated 21.11.2017 before the Inspector General of Registration (IGR), Chennai, complaining of fraudulent registration of Temple lands by one Thiru.S.R.Subramaniyam [elder brother of the petitioner's father] who has executed a registered lease deed to an extent of 18.71 acres of the said temple lands *vide* document No.6748/2013 dated 20.05.2013 at Ponneri Sub-Registrar Office, for a period of 10 years in favour of his grandson



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R.Sivaramakrishnan, for an annual rent of Rs.2,000/- and lease amount of Rs.10,000/- in his self proclaimed capacity as Hereditary Trustee of the Temple. Based on the complaint, the Inspector General of Tamil Nadu, conducted a thorough enquiry and directions were given to the Sub-Registrar, Ponneri, to file an FIR against the persons concerned, who are involved in the fraudulent registration of the temple lands. Thus, the Sub-Registrar, Ponneri filed a complaint before the Inspector of Police, E-1 Ponneri Police Station, against the executants of the fraudulent document and a case in Crime No.488 of 2018 was registered on 19.10.2018 for the offences under Sections 420, 465, 468 and 471 of IPC read with Sections 82(a) and 82(d) of Registration Act, 1908.

(ii) In the mean while, the petitioner gave a complaint dated 23.11.2017 to the Commissioner, Hindu Religious and Charitable Endowments Department, Government of Tamil Nadu (HR & CE). The Assistant Commissioner, HR & CE, Tiruvallur, after thorough enquiry passed an order on 05.04.2018 directing the Ponneri HR&CE Circle Inspector to take possession of the temple lands from the private party and



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make arrangements for Open Lease Auction of Temple lands and also directed to cancel the sale deed executed by private persons.

(iii) As the orders of the authorities concerned were not acted upon, the petitioner filed a writ petition in W.P.No.4515 of 2019 and this Court *vide* order dated 28.09.2020 allowed the petition and directed the authority concerned to cancel the lease deed *vide* document No.6748/2013 dated 20.05.2013, on the file of the Sub Registrar, Ponneri, registered by 6th respondent therein in favour of 7th respondent therein as *void ab initio* and also directed the Inspector of Police, Ponneri to conclude the investigation in Crime No.488 of 2018 and submit a final report within a period of three months from the date of receipt of copy of the order and also passed various directions to the authority concerned. Failing to comply with the directions of this Court dated 20.05.2013 in W.P.No.4515 of 2019, the petitioner has filed a contempt petition in Cont.P.No.1690 of 2021. After initiating contempt proceedings, the first respondent herein filed a final report/charge sheet against A1 and A2 before the Special Court for the Exclusive Trial of Land Grabbing Cases, Tiruvallur and the cognizance of the final report was

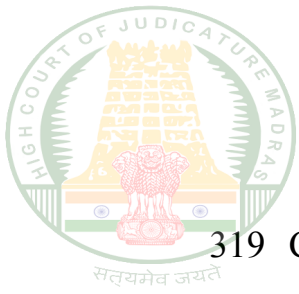


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taken on file in C.C.No.66 of 2022 for the offences under Sections 420, 465, 468 and 471 of IPC r/w Sections 82 (a) and 82(d) of Registration Act, 1908 and the petitioner was listed as P.W.2 in the final report. Subsequently, the case was transferred to the file of the learned Judicial Magistrate-I, Ponneri and re-numbered as C.C.No.39 of 2023.

(iv) While that being so, the petitioner filed a petition in Crl.M.P.No.2634 of 2023 under Section 302 Cr.P.C. seeking permission to allow him to prosecute the case in C.C.No.39 of 2023 in person. The Court below *vide* order dated 10.01.2024 allowed the petition and only permitted the petitioner to assist the prosecution. Challenging the same, the petitioner approached this Court by way of filing a petition in Crl.O.P.No.3338 of 2024 and this Court *vide* order dated 16.02.2024 dismissed the petition by confirming the order of the trial Court and also directed the trial Court to dispose of the main case within eight months from the date of receipt of the copy the order.

(v) While that being so, the petitioner filed a petition under Section



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319 Cr.P.C. to issue summons to the Sub-Registrar, Ponneri, District Registrar (North Chennai) (Administration), District Registrar (North Chennai) (Audit), two attesting witnesses in the said lease deed, Document Writer and two surviving daughters of the deceased A1 and mother of A2 and S.U.Nallinipriya and array them as accused persons in the case in C.C.No.39 of 2023, which came to be dismissed on 21.01.2025. Aggrieved by the said order, the present petition has been filed the petitioner.

3. It is the contention of the petitioner (party-in-person) that the Sub-Registrar, Ponneri, District Registrar (North Chennai) (Administration), District Registrar (North Chennai) (Audit), two attesting witnesses in the said lease deed, Document Writer and two surviving daughters of the deceased A1 and mother of A2 and S.U.Nallinipriya have also committed the offences, but the final report was filed only against A1 and A2. Hence, he filed the petition under Section 319 Cr.P.C., to implead the above named persons as accused in C.C.No.39 of 2023 and they can be tried together with A1 and A2. He further submitted that originally the petition under Section 319 Cr.P.C., was filed on 07.07.2024, but the same was



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returned. After serving a copy to the learned Additional Public Prosecutor and after endorsed by the Additional Public Prosecutor, the case was re-presented and the same was numbered as Crl.M.P.No.1889 of 2024. Subsequently, the case was adjourned for several hearing for filing counter. Similarly copy was served to the counsel for A2 and hearings were adjourned for counter of A2, who finally endorsed 'petition not maintainable both on facts and law'. Thereafter, the learned Magistrate, without hearing the case on merits dismissed the petition stating that the petitioner's power in filing the petition is ousted as per Section 319 Cr.P.C. He further submitted that he has been examined as P.W.2 and he was examined-in-chief by the learned Additional Public Prosecutor and the defence counsel endorsed "no cross". Then Ex.P1 [IGR Order], Ex.P2 [HR&CE Order], Ex.P3 [Order in W.P.No.4515 of 2019] and Ex.P4 [Order in Con.P.No.1690 of 2021] were marked as documentary evidence.

4. He further submitted that there is more than *prima facie* evidence, which if left unrebutted could lead to the conviction of the proposed additional accused, since the evidences are all documentary evidences. He



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further submitted that as per Section 34 of Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959, the alienation of immovable trust property is void if it is not in accordance with the Act. In the instant case, the Inspector General of Registration and the Commissioner of HR & CE Department have taken into consideration the fraudulent registration of documents pertaining to the said temple lands, and after thorough enquiry passed the final orders. Based on the same, the alleged document i.e., lease deed were declared as *void ab initio*. Therefore, as per Sections 81, 34C, 68 and 89 B of Registration Act, the Court have ample power to punish the frauds on the face of records. He further submitted that the trial Court has ample power to add any person, who are not being the accused before it, to face the trial along with other accused persons, if the Court is satisfied at any stage of the proceedings on the evidence adduced that the persons who have not been arrayed as accused should face the trial. However, the trial Court without going into the merits of the case, simply dismissed petition.

5. Heard both sides and perused the materials available on record.

6. Admittedly, based on the strenuous efforts taken by the petitioner



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herein, an enquiry was conducted by the Inspector General of Registration and thereafter, it came to light that fraudulent Registration of the documents pertaining to the temple lands had taken place and that a case in Crime No.488 of 2018 was registered against the fraudulent executants for the offences under Sections 420, 465, 468 and 471 of IPC read with Sections 82(a) and 82(d) of Registration Act, 1908. After several proceedings, the first respondent-Police completed the investigation and filed the final report before the trial Court and the same was taken on file in C.C.No.39 of 2023. The petitioner as a *de-facto* complainant has filed a petition and sought permission to allow him to prosecute the case independently, however, the Court below rejected his plea and given a direction that he shall assist the prosecution, which was confirmed by this Court by order dated 16.02.2024 in Crl.O.P.No.3338 of 2024. After framing charges, the trial was commenced and the petitioner was examined as P.W.2 and after completion of examination of witnesses, the petitioner approached the trial Court and filed a petition under Section 319 Cr.P.C., to implead the named persons, who have also committed offences by creating fraudulent documents to register the document along with A1 and A2, and array them as accused in



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C.C.No.39 of 2023. The trial Court without going into the merits of the case, simply dismissed the petition on the ground that the petitioner has no *locus standi* to file the petition under Section 319 Cr.P.C.

7. In the above context, it is useful to extract Sections 319 Cr.P.C., as follows:

" 319. Power to proceed against other persons appearing to be guilty of offence .- (1) Where, in the course of any inquiry into, or trial of, an offence, it appears from the evidence that any person not being the accused has committed any offence for which such person could be tried together with the accused, the Court may proceed against such person for the offence which he appears to have committed.

(2) Where such person is not attending the Court, he may be arrested or summoned, as the circumstances of the case may require, for the purpose aforesaid.

(3) Any person attending the Court although not under arrest or upon a summons, may be detained by such Court for the purpose of the inquiry into, or trial of, the offence which he appears to have committed.

(4) Where the Court proceeds against any person



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under sub-section (1) then -

(a) the proceedings in respect of such person shall be commenced afresh, and the witnesses re-heard;

(b) subject to the provisions of clause (a), the case may proceed as if such person had been an accused person when the Court took cognizance of the offence upon which the inquiry or trial was commenced."

8. As per Section 319 Cr.P.C., pending enquiry or trial, if it came to the knowledge of the Court that any person not being the accused also involved in the alleged offence for which such person could be tried together with the accused. In the instant case, though the petitioner has brought to the knowledge of the Court below about the involvement of other persons in the alleged offence, the trial Court has not applied its mind on the merits of filing of the petition under Section 319 Cr.P.C., and simply rejected the petition on the ground that the petitioner in person already examined as P.W.2 by the Court and the complainant is the Sub-Registrar, Ponneri and the petitioner as a witness has no *locus standi* to file the petition by invoking Section 319 Cr.P.C.

9. Considering the facts and circumstances and also considering the submissions of both sides, this Court is of the view that as per Section 319



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Cr.P.C. even no application is necessary by any of the party to the implead any person not being the accused, if the Court itself finds from the available materials that person has committed an offence, the Court shall implead them as accused, however, in the present case, the trial Court without going into the merits of the case, simply dismissed the petition on the ground of maintainability i.e., locus standi.

10. In that view, the order impugned in this petition is set aside and the case is remanded back to the trial Court for fresh consideration and the trial Court is directed to give an opportunity to all the parties and proceed with the case and pass orders on merits and in accordance with law.

11. With the above directions, this Criminal Revision Petition is allowed.

03.03.2025

Index : Yes/No
Neutral Citation Case : Yes/No
Speaking Order : Yes/No
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- To
1. The Judicial Magistrate – I,
Ponneri.
 2. The Inspector of Police,
DCB-ALGSC, Tiruvallur.
 3. The Public Prosecutor,
High Court, Madras.



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P.VELMURUGAN, J.
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