



Crl.O.P.No.6901 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.02.2025

CORAM:

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

Crl.O.P.No.6901 of 2023
and Crl.M.P.No.4329 of 2023

Dr.K.Jai Chithra

... Petitioner

Vs.

1. Shankari

2. John Abraham
Officer,
M/s. Punjab National Bank,
No.54, Sabari Street,
Binny Compound,
Tiruppur – 641 001.

3. M.Ramasamy
4. Rajarajeshwari

5. The State
Rep. by the Inspector of Police,
Palladam Police Station,
Palladam, Tiruppur.

... Respondents

PRAYER: Criminal Original Petition is filed under Section 482 of Cr.P.C., to call for the records and set aside the order of the learned Principal Sessions Judge, Tiruppur, made in Crl.R.P.No.1 of 2022 dated 24.01.2023 and reversing the order of the learned Judicial Magistrate, Palladam made in Crl.M.P.No.636 of 2021 dated 10.03.2021.



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For Petitioner : Mr.R.Srinivas, Senior Counsel
For Mr.S.Sithirai Anandam
For Respondents
For R1 : Mr. M.Santhanaraman
For R2 to R4 : No appearance
For R5 : Mr.A.Gopinath
Government Advocate (Crl. Side)

ORDER

This petition has been filed challenging the order dated 24.01.2023, passed by the learned Principal Sessions Judge, Tiruppur, in Crl.R.C.No.1 of 2022, reversing the judgement dated 10.03.2021, passed by the learned Judicial Magistrate, Palladam, in Crl.M.P.No.636 of 2021, thereby allowing the private complaint filed by the first respondent.

2. The first respondent lodged private complaint under Section 156(3) of Cr.P.C., before the learned Judicial Magistrate, Palladam, alleging that her husband owned property at Door No.2 Pachapalayam, Naranapuram, Palladam, Tiruppur District. The said property was mortgage with the second respondent namely M/s.Punjab National Bank at the time of borrowal of loan by the fourth respondent, who is none other than the sister of the first respondent's husband. Subsequently, the fourth respondent failed to repay the said loan as such, and the Punjab



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National Bank initiated proceeding under the SARFESI Act. The subject property was attached as security for the loan obtained by the fourth respondent and the same was taken possession by the bank. Before the property was brought on auction sale, the first respondent's husband died on 14.06.2019. However, without issuance of notice to the legal heir of the original owner, viz., the first respondent, the banker had sold out the property by way of auction sale, in favour of the third respondent herein on 04.10.2019 and the third respondent was issued sale certificates vide document No.13144 of 2019 dated 04.10.2019. In turn, the third respondent had sold out the subject property in favour of the petitioner by the registered sale deed dated 06.11.2019, and the same was presented for registration before the registering authority. Subsequently, it was kept pending in document number P45 of 2019.

3. It was further alleged that the first respondent's husband died as early as on 14.06.2019. The second respondent produced consent letter dated 04.10.2019, as if the first respondent's husband consented for a private treaty, to sell the mortgaged property and consented for the same. On the strength of the consent letter, the second respondent sold the property in favour of the third respondent. In turn, the third

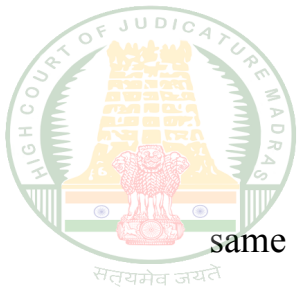


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respondent sold out the property in favour of the petitioner. The first respondent had also challenged the said auction sale in second appeal in S.A.No.516 of 2020 and it is pending before the Debt Recovery Tribunal, Coimbatore, for adjudication. The learned Magistrate dismissed the complaint on the ground that there is no *prima facie* case made out by the first respondent to register any case or to take cognizance. Aggrieved by the same, the first respondent preferred a revision before the learned Principal Sessions Judge, Tiruppur, in C.R.P.No.1 of 2022 and the learned Session Judge by an order dated 24.01.2023, directed the learned Judicial Magistrate, Palladam to forward the complaint under Section 156(3) of Cr.P.C., to the fifth respondent to register and investigate the case and to file final report. Aggrieved by the same, the petitioner, being the subsequent purchaser of the property, filed this petition.

4. The learned Senior Counsel appearing for the petitioner submitted that the petitioner had absolutely no knowledge about the consent letter dated 04.06.2019 issued by the first respondent's husband, since she is a subsequent purchaser from the third respondent. The mortgaged property was brought for auction sale. In the auction sale, the third respondent purchased the same and subsequently, he sold out the



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same in favour of the petitioner herein. Therefore, the petitioner has nothing to do with the allegations levelled as against the other accused persons.

5. Per contra, the learned counsel appearing for the first respondent submitted that the petitioner is also the family doctor of the first respondent. Therefore, she had knowledge about the property which was brought for auction sale and the issuance of consent letter dated 04.10.2019. Further after fifteen days from the date of auction sale, the petitioner had purchased the property from the auction purchaser. The petitioner and other accused altogether colluded with each other in order to grab the property and had brought the property for auction sale and thereafter executed sale deed in favour of the petitioner herein.

6. The learned Government Advocate (Crl. Side) appearing for the fifth respondent police submitted that as directed, the fifth respondent registered the FIR in Crime No.215 of 2025 for the offences under Sections 61(2), 316(5) & 318(4) of the Bharatiya Nyaya Sanhita and it is pending for investigation.



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7. Heard the learned counsel appearing on either side and

perused the materials placed before this Court.

8. On perusal of records, it is revealed that the subject property was mortgaged with the second respondent bank while borrowing loan by the fourth respondent. The fourth respondent is the own sister of the first respondent's husband. However, the fourth respondent committed default and as such the subject property was brought to auction sale on 17.07.2019 and the same was purchased by the third respondent and he was issued sale certificate dated 04.10.2019 and it was recorded in the book of records as contemplated under the Registration Act, as document No.13144/2019 dated 04.10.2019. Subsequently, on 06.11.2019, the petitioner had purchased the said property from the third respondent and presented the document for registration. However, it was kept as a pending document P.45 by the registering authority.

9. When the property was sold out in the public auction on 17.07.2019, the so called consent letter dated 04.10.2019, doesn't require for private treaty, since the specific case of the first respondent before the revisional Court is that, by forging the signature and fabricated consent



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letter dated 04.10.2019, the property was sold out in favour of the third respondent. Even assuming that the consent letter dated 04.10.2019 was fabricated by the second respondent, the third respondent would not have obtained sale certificate on the same day viz., on 04.10.2019. Even before the issuance of sale certificate, the third respondent would have purchased the subject property. Therefore, the purpose for which the consent letter dated 04.10.2019, allegedly fabricated by the second respondent, was not acted upon.

10. That apart, the first respondent raised this ground only before the revision Court. She did not even whisper about the consent letter dated 04.10.2019 before the trial Court and she merely alleged that her husband's property was illegally sold without the issuance of notice to the legal heirs of her deceased husband. Even assuming that the bankers had fabricated the consent letter dated 04.10.2019, and had sold the property in favour of the third respondent in the auction sale, the petitioner is being the subsequent purchaser of the third respondent, she has nothing to do with the consent letter dated 04.10.2019. Therefore, there is absolutely no prima facie case made out in the complaint lodged by the first respondent, and the learned Judicial Magistrate, Palladam,



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rightly dismissed the complaint. However, the revisional Court without considering the facts and circumstances mechanically allowed the revision and directed the fifth respondent to register the case. Further, the first respondent already had challenged the auction proceedings initiated under the SARFAESI Act and it is pending in S.A.No. 516 of 2020 on the file of the Debt Recovery Tribunal, Coimbatore, for the past six years.

11. In view of the above discussions, the order passed by the revisional Court cannot be sustained and liable to be dismissed. Accordingly, the order dated 24.01.2023 passed by the learned Principal Sessions Judge, Tiruppur, in Crl.R.C.No.1 of 2022, is hereby set aside, insofar as the petitioner alone. The fifth respondent is directed to delete the name of the petitioner and proceed with the investigation as against the other accused persons. Further, the Debt Recovery Tribunal, Coimbatore, is directed to dispose the case in S.A.No.516 of 2020 within a period of three months from the date of receipt of a copy of this order.



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12. With the above directions, the Criminal Original Petition

stands allowed. Consequently, connected miscellaneous petition is closed.

18.02.2025

Index : Yes/No
Neutral citation : Yes/No
Speaking/non-speaking order

rts

To

1. The Principal Sessions Judge,
Tiruppur.

2. The Judicial Magistrate,
Palladam.

3. The Inspector of Police,
Palladam Police Station,
Palladam, Tiruppur.

4. The Public Prosecutor,
Madras High Court,
Chennai.



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G.K.ILANTHIRAIYAN, J.

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