



WEB COPY



Crl.RC.No.1751 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.07.2025

CORAM:

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

Crl.RC.No.1751 of 2023 and
Crl.MP.No.16655 of 2023

P.Kalyankumar ... Petitioner

Versus

R.Rajavel ... Respondent

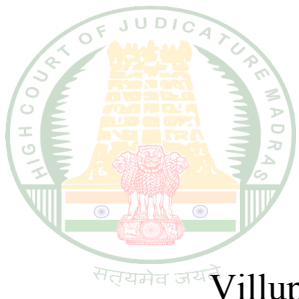
PRAYER: Criminal Revision Case filed under Section 397 r/w 401 of Cr.P.C., praying to set aside the impugned order dated 11.07.2023 made in Crl.MP.No.950 of 2021 in CC.No.39 of 2021 passed by the learned District Munsif cum Judicial Magistrate, Vikravandi, Villupuram District and allow the criminal revision petition.

For Petitioner : Mr.Sathiyaraj E.

For Respondent : Mr.Prakash Godaney

ORDER

This criminal revision case has been filed against the order dated 11.07.2023 passed in Crl.MP.No.950 of 2021 in CC.No.39 of 2021 by the learned District Munsif cum Judicial Magistrate, Vikravandi,



Crl.RC.No.1751 of 2023

WEB COPY

Villupuram District thereby discharging the respondent from all the charges.

2. The petitioner is the complainant. On his complaint, the trial court had taken cognizance in CC.No.39 of 2021 for the offence punishable under Section 81 of Registration Act. It had been alleged in the complaint that one, Chandramoorthy had sold the subject property to one, Chokkalingam as admitted on 28.08.1986 excluding 5 cents as in the sale certificate, delivery receipt and also the sale deed dated 28.08.1986. Therefore, the petitioner submitted representation to the District Registrar to make necessary correction in the registration records as the document No.462 of 1991 dated 07.11.1990 is an illegal one. It was further alleged that the registering authority had mechanically registered the same without verifying patta which stands in favour of the petitioner's mother and letter from bank giving details of non availability of original sale deed in favour of Lakshmiammal. Therefore, the settlement deed executed by the said Lakshmiammal registered vide document No.3561 of 2020 dated 16.11.2020 is fraudulent one. In fact,



Crl.RC.No.1751 of 2023

WEB COPY

this Court passed order in WP.No.417 of 2021 by an order dated 01.02.2021 directing the Inspector General of Registration to conduct enquiry and to direct the District Registrar to make entry to that effect. Even after obtaining order from the civil court, the accused had encumbered the subject property with collusion of the fourth accused. The trial court had taken cognizance and issued summons against the fourth accused for the offence punishable under Section 81 of the Tamilnadu Registration Act. Pending framing of charges, the respondent filed application to discharge him from the charges on the ground that the petitioner failed to obtain any sanction to prosecute the respondent. Furthermore, the respondent ought not to have looked into the title over the property. He has to look into the other aspects to register the same. After detailed fulfilled enquiry, the trial court allowed the petition and discharged the respondent from the charges under Section 81 of the Tamilnadu Registration Act. Aggrieved by the same, the present criminal revision case has been filed.



Crl.RC.No.1751 of 2023

WEB COPY

3. The learned counsel for the petitioner would submit that though specific allegations were made against the respondent, the trial court mechanically discharged him from the charges. The respondent had deliberately registered the document which was presented for registration by the first accused in favour of the second accused by way of settlement deed. In fact, the patta which was enclosed with the said document stands in the name of the petitioner's mother. Without considering the same, the respondent registered the settlement deed which was produced during registration by the first accused. That apart, the respondent was in-charge as Registrar at the time of the registration of the settlement deed dated 16.11.2020 which was presented by the first accused. Therefore, no sanction is required under Section 197(1)(b) of Cr.P.C. to prosecute the respondent.

4. Per contra, the learned counsel for the respondent would submit that as per Section 84 of the Registration Act, the registering officer should be deemed public servant and as such, sanction is required to prosecute the respondent. On the date of the registration of the alleged



Crl.RC.No.1751 of 2023

WEB COPY

settlement deed, the respondent was in charge as sub registrar and he was acted as registering authority. Therefore, he is deemed to be public servant and sanction is must to prosecute him under Section 197(1)(b) of Cr.P.C. He further submitted that the respondent who was being registering authority has no adjudicatory power to decide whether the executant has any title. Even when an executant executes a sale deed or lease deed in respect of a land over which he has no title, the registering authority cannot refuse to register the document if all the procedural compliances are made and necessary stamp duty as well as registration charges / fee are paid. Therefore, even assuming that the first accused had no title over the property, it is not the duty of the respondent to look into the same at the time of the presentation of the document for registration. Therefore, the trial court rightly discharged the respondent and the order of the trial court does not warrant any interference by this Court.

5. Heard, the learned counsel appearing on either side and perused the materials available on record.



Crl.RC.No.1751 of 2023

WEB COPY

6. On perusal of records, it is revealed that there are totally four accused, in which the respondent is arrayed as fourth accused. He was charged for the offence under Section 81 of the Registration Act. The respondent filed a petition to discharge him from the charges on the ground that the petitioner failed to obtain any sanction to prosecute him as contemplated under Section 197(1)(b) of Cr.P.C. Further, the respondent, being the registering authority, is not supposed to verify the title over the property in respect of the executant of the document.

7. The learned counsel for the petitioner vehemently contended that the respondent was in charge as Sub Registrar on the date of the registration of the alleged settlement deed presented by the first accused to be executed in favour of the second accused. Therefore, the petition submitted by the petitioner seeking for sanction was rejected by the order date 30.11.2023 by the Secretary of Commercial Tax and Registration Department on the ground that the respondent was working as Assistant in the Sub Registrar Office. Therefore, sanction to prosecute the



Crl.RC.No.1751 of 2023

WEB COPY

respondent is not required to prosecute the respondent. However, it was ordered only on 30.11.2023 that is much later to the order passed by the trial court.

8. It is relevant to extract the provisions under Section 84 of Registration Act hereunder:

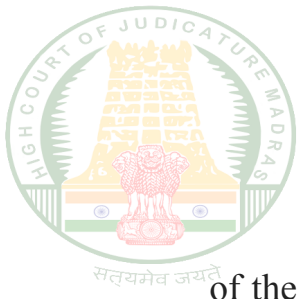
84. Registering officers to be deemed public servants.

(1) Every registering officer appointed under this Act shall be deemed to be a public servant within the meaning of the Indian Penal Code (45 of 1860).

(2) Every person shall be legally bound to furnish information to such registering officer when required by him to do so.

(3) In section 228 of the Indian Penal Code (45 of 1860), the words judicial proceeding shall be deemed to include any proceeding under this Act.

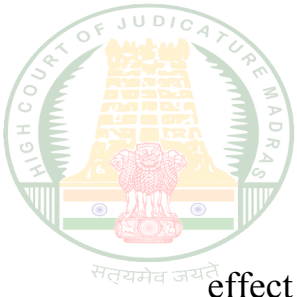
9. Therefore, registering officers to be deemed public servant whether the respondent was in charge as registering authority or permanently he had been posted as registering officer. Admittedly, the respondent acted as registering authority on the date of the presentation



Crl.RC.No.1751 of 2023

WEB COPY

of the document and registered the same. The Hon'ble Supreme Court of India held in ***Civil Appeal No.3954 of 2025*** dated 07.04.2025 in the case of ***K.Gopi Vs. Sub Registrar and ors.*** that the registering officer is not concerned with the title held by the executant. He has no adjudicatory power to decide whether the executant has any title. Even if an executant executes a sale deed or a lease in respect of a land in respect of which he has no title, the registering officer cannot refuse to register the document if all the procedural compliances are made and the necessary stamp duty as well as registration charges/fee are paid. We may note here that under the scheme of the 1908 Act, it is not the function of the Sub-Registrar or Registering Authority to ascertain whether the vendor has title to the property which he is seeking to transfer. Once the registering authority is satisfied that the parties to the document are present before him and the parties admit execution thereof before him, subject to making procedural compliances as narrated above, the document must be registered. The execution and registration of a document have the effect of transferring only those rights, if any, that the executant possesses. If the executant has no right, title, or interest in the property, the registered document cannot



Crl.RC.No.1751 of 2023

effect any transfer.

WEB COPY

10. Thus it is clear that the registering authority has no jurisdiction or power to decide whether the executant has any title. If an executant executes a deed in respect of the subject property over which the executant has no title, the registering authority cannot refuse to register the document if it is otherwise in order. Therefore, no charge is made out against the respondent under Section 81 of Registration Act and the trial court rightly discharged him.

11. In view of the above discussion, this criminal revision case is dismissed. Consequently, connected miscellaneous petition is closed.

02.07.2025

Index:Yes/No
Neutral citation:Yes/No
Speaking/Non speaking order
lok

G.K.ILANTHIRAIYAN. J,



WEB COPY



Crl.RC.No.1751 of 2023

lok

To
The learned District Munsif cum Judicial Magistrate, Vikravandi,
Villupuram District

Crl.RC.No.1751 of 2023

02.07.2025