



Crl.R.C.(MD)No.114 of 2024

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 25.03.2025

Delivered on : 30.04.2025

CORAM

THE HONOURABLE MR.JUSTICE K.MURALI SHANKAR

Crl.R.C.(MD)No.114 of 2024

Jaffer Mohammed Kasin Peer

... Petitioner

Vs.

1.State rep.by
The Inspector of Police,
District Crime Branch,
Tirunelveli District.

2.P.Syed Nisha Beema

3.Raja

4.Fathimuthu Hajira

5.Mydeen Anwar

... Respondents

PRAYER : Criminal Revision Petition filed under Section 397 r/w 401 of Cr.P.C., to call for the entire records pertaining to the order passed by the learned Judicial Magistrate No.V, Tirunelveli in Cr.M.P.No.20307 of 2023 vide order, dated 04.11.2023 and set aside the same and consequently to proceed further in accordance with law.



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For Petitioner : Mr.R.Anand

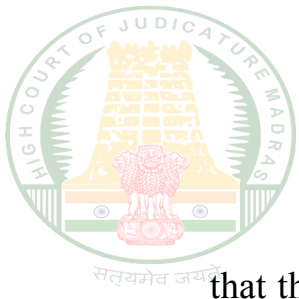
For Respondent : Mrs.Aasha,
Government Advocate (Criminal Side)
for R1.

: Mr.M.P.Senthil, for R2, R4 and R5.

ORDER

The Criminal Revision is directed against the order passed in Cr.M.P.No.20307 of 2023, dated 04.11.2023 on the file of the learned Judicial Magistrate No.V, Tirunelveli , dismissing the complaint filed under Section 156(3) of Cr.P.C.

2. The case of the petitioner/complainant is that the lands to the extent of 13.14 acres in S.No.43 of Duvarasi Village of Tirunelveli Taluk came to be owned by the petitioner's father P.K.Peer Ahamad, Peer Fathu and the respondents 2 and the fourth respondent's mother-in-law vide joint purchase; that all of them have executed power of attorney in respect of 6.50 acres of land in favour of one Raja vide document No. 890/2008, dated 11.12.2008; that they have also executed a power of attorney in favour of one Peer Fathu W/o.Mohammed Abdul Ajees vide document No.43/2009; that the petitioner's father died on 05.08.2010 and



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that the said Peer Fathu and the private respondents after fully knowing about the death of the petitioner's father had entered into fraudulent documents and that they have also fabricated a receipt as if the same was executed by the petitioner's father and that thereby, they have cheated the petitioner.

3. It is the further case of the petitioner that though he preferred a complaint before the Commissioner of Police, there was no action and hence, the petitioner was constrained to file the above complaint. The learned Magistrate, taking note of fact that the petitioner has not complied with the mandatory requirements as contemplated under Sections 154(1) and 154(3) of Cr.P.C., has proceeded to treat the petition as complaint under Section 200 Cr.P.C. Thereafter, the learned Magistrate has recorded the sworn statement of the petitioner/complainant and upon perusing the complaint, sworn statement of the complainant and other records, has passed the impugned order, dated 04.11.2023, by holding that the dispute is of civil in nature, dismissed the complaint.



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4. The learned counsel for the petitioner would submit that the petitioner has filed the petition under Section 156(3) of Cr.P.C., the learned Magistrate has treated the said petition as a complaint under Section 200 Cr.P.C., on the ground that the petitioner has not complied with the requirements under Sections 154(1) and 154(3) of Cr.P.C., that the petitioner has originally sent a complaint to the concerned Police and since they have refused to register the case, the petitioner was constrained to send a complaint to the Commissioner of Police through speed post and that since the petitioner has properly complied with the requirements under Sections 154(1) and 154(3) of Cr.P.C., treating the petition filed under Section 156(3) of Cr.P.C., as complaint under Section 200 Cr.P.C., by the learned Magistrate, cannot be sustained.

5.As rightly contended by the learned Government Advocate (Criminal Side), the petitioner in his complaint under Section 156(3) Cr.P.C., has nowhere whispered that he sent the complaint to the jurisdictional police and that since there was no action from the jurisdictional police, he lodged a complaint before the Commissioner of



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Police. Moreover, the petitioner has not produced any iota of materials to show that he sent a complaint to the jurisdictional police and the receipt of the same by the concerned police. Hence, the observation of the learned Magistrate that the petitioner has not complied with the requirements under Section 156(3) of Cr.P.C., in the absence of any materials, cannot be found fault with.

6.The learned Government Advocate (Criminal Side) would submit that on the basis of the complaint sent to the Commissioner of Police, the same was forwarded to the Assistant Commissioner of Police, CCB, Tirunelveli City, who in turn, directed the Inspector of Police, CCB, Tirunelveli, to conduct enquiry and in pursuance of the same, the Inspector of Police, CCB, has conducted enquiry and at the enquiry, the private respondents have given statements that since the dispute is of civil in nature, they are going to move the competent civil Court and the petitioner has given statement that he lodged a complaint before the District Registrar for cancellation of documents and on the basis of the statements given by both the parties, the complaint was ordered to be closed and that the petitioner, by giving civil dispute a criminal colour, has lodged the complaint with false and untenable allegations.



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7.The learned counsel for the private respondents 2, 4 and 5 would submit that the petitioner's father and others have jointly purchased the property and executed two power of attorney deeds and the power agents have sold only the portion of the property. Even according to the petitioner, the second respondent is her own sister; Peer Fathu is none other than the mother-in-law of the 2nd and 4th respondents and that the fifth respondent is the husband of the fourth respondent.

8.As rightly contended by the learned counsel for the private respondents, the petitioner's father and others executed a power of attorney in favour of the third respondent Raja in respect of ½ acres of land on 11.12.2008 and another power of attorney deed in favour of Peer Fathu in respect of 6.50 acres of land on 30.01.2009 and the power agents have sold 1 ½ acres of land out of 13 acres and according to the private respondents no sale was made with respect to the petitioner's father share. More importantly, as rightly contended by the learned counsel for the private respondents, the petitioner without taking any action for cancellation of documents has lodged a complaint after the lapse of 12 years and that since the civil action itself is barred by time, the present complaint would only amount to abuse of process of law.



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9.As rightly observed by the learned Magistrate, attempting to cancel the sale deeds executed by co-owner with respect to small portion of the lands owned by the petitioner's father and others is purely a civil dispute and the petitioner has been attempting to give civil dispute a criminal color.

10.In view of the above, the learned Magistrate, after conducting enquiry under Section 200 Cr.P.C., holding that the petitioner has not shown any *prima facie* case to proceed further, has rightly dismissed the complaint under Section 203 of Cr.P.C. Consequently, this Court concludes that the Criminal Revision is devoid of merits and the same is liable to be dismissed.

11.In the result, the Criminal Revision case is dismissed.

30.04.2025

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
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K.MURALI SHANKAR,J.

das

To

- 1.The Judicial Magistrate No.V, Tirunelveli.
- 2.The Inspector of Police,
District Crime Branch,
Tirunelveli District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

Pre-delivery order made in
Crl.R.C.(MD)No.114 of 2024

Dated: 30.04.2025