



Crl.A.(MD)No.603 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED : 28.02.2025

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

Crl.A.(MD)No.603 of 2024
and
Crl.M.P.(MD)No.7273 of 2024

A.Ilayaraja

... Appellant

versus

1. The Deputy Superintendent of Police,
Musiri,
Tiruchirappalli District.

2. The Inspector of Police,
Kattuputhoor Police Station,
Tiruchirappalli District.

3. Selvi

4. K.Venkatesh

... Respondents

Appeal filed under Section 14(A)(1) of the Schedule Castes and Schedule Tribes (Prevention of Atrocities) Amendment Act, 2018, to call for the records pertaining to the order made in Crl.M.P.No.817 of 2024 in Spl.S.C.No.46 of 2021 on the file of the learned I Additional District Judge (PCR), Tiruchirappalli, dated 15.03.2024 and to set aside the same.



WEB COPY



Crl.A.(MD)No.603 of 2024

For Appellant : M/s.A.Joel Paul Antony
For R1 and R2 : Mr.P.Kottaichamy,
Government Advocate (Crl. Side)
For R3 and R4 : Mr.S.Ramsunder Vijayaraj

JUDGMENT

The appellant herein is the defacto complainant in Spl.S.C.No.46 of 2021 on the file of the learned I Additional District Judge (PCR), Tiruchirappalli. He filed this Criminal Appeal challenging the order dated 15.03.2024 passed in Crl.M.P.No.817 of 2024 by the learned I Additional District Judge (PCR), Tiruchirappalli.

2. The appellant's father Andi owns an ancestral property to an extent of 28 ½ cents in S.F.No.684/4 at Elurpatti, Thottiyam Taluk, which is worth about Rs.2,80,00,000/- at the rate of Rs.10 lakhs per cent. In the year 2018, the appellant's father and brothers were in need of money and therefore, they approached the accused No.3 through mediators, namely, accused Nos. 1 and 2 and borrowed a sum of Rs.6 lakhs, for which, the accused Nos.1 to 3 insisted them to execute a sale deed. Pursuant to the same, they executed a sale deed dated 22.11.2018 to an extent of 10 cents in Survey No.684/4.



WEB COPY

Thereafter, in the year 2019, the appellant was in need of money and therefore, he borrowed a sum of Rs.5 lakhs from the accused No.3 with interest at the rate of 24% p.a. At that time, he was also insisted to execute a sale deed as security and therefore, he executed another sale deed dated 30.04.2019 to an extent of another 10 cents in S.No.684/4. Both the sale deeds have been registered in favour of the respondents 3 and 4, who are the daughter and son-in-law of the accused No.3, as if the properties have been sold in favour of them for a sum of Rs.2,90,000/- each. According to the appellant, they have paid the interest amount and when they have attempted to redeem the property by repaying the loan amount, the accused refused to cancel the sale deeds and return the documents. Thereafter, the appellant came to know that the accused Nos.1 and 2 received a sum of Rs.9 lakhs for the said transaction. Therefore, the appellant has lodged a complaint with the second respondent to take action as against the accused persons.

3. The respondent Police has conducted an investigation and called the accused No.3. At that time, the accused No.3 is said to have insisted that there was a loan due of Rs.65 lakhs, however, the negotiation was not fruitful. Finally, the respondent Police has filed the final report as against



WEB COPY

accused Nos.1 to 3 admitting the case of the appellant/defacto complainant that it is not a sale transaction and the accused Nos.1 to 3 cheated the appellant and his father and his brothers, by creating sale deeds for security purpose for the loan advanced by them. Thereafter, the case was committed to the Court of Sessions and the trial Court has also framed the charges. The appellant/P.W.1 was summoned by the trial Court for evidence. At that time, the appellant/defacto complainant came to know that the real accused, namely, respondent Nos.3 and 4 herein, who are the beneficiaries of the documents, were not shown as accused in the FIR. Therefore, he filed a petition in Crl.M.P.No.817 of 2024 under Section 319 Cr.P.C. to include the present land owners/beneficiaries of the subject documents as accused in Spl.S.C.No.46 of 2021. But, the said petition was rejected by the trial Court by its order dated 15.03.2014 that the respondents 3 and 4 cannot be added as accused at that stage and it can be decided only during the trial based on the evidence. Aggrieved over that, the present appeal has been filed.

4. The learned counsel appearing for the appellant submits that at the time of borrowal of money, the appellant, his father and his brothers were forced to execute a sale deed. When they refused to execute a sale deed, the



WEB COPY

accused persons convinced them stating that it was the practice to execute a registered sale deed when the loan amount was obtained. Therefore, they have executed the sale deeds. He further submits that the appellant and his family members were subjugated persons in the village on the caste and therefore, they could not wriggle out of the forcible and fraudulent execution and registration of the sale deed. The 3rd accused Durairaj was a respectable person in the village and they believed that on repayment of the said loan amount, the land would be re-conveyed to them. But, the 3rd accused refused to do so. On contrary, the 3rd accused claimed that the appellant and his family members had to pay a sum of Rs.65,00,000/- towards the loans availed by them and therefore, the sale deeds executed by them will become permanent.

5. The learned counsel appearing for the appellant further submits that the sale deeds had been executed not on par with the market value, but, the same were executed for a sum of Rs.2,90,000/- each and registered only as a security for the loans availed by them. He further submits that the land involved in the two sale deeds are punja lands and it is a vacant site without any cultivation being carried out for the past several years. Taking



advantage of the same, the 3rd accused along with his daughter and son-in-law forced the appellant and his family members to execute sale deed and thereby, cheated them with an intention to grab the said land.

6. The learned counsel appearing for the appellant further submits that the first respondent, namely, the Deputy Superintendent of Police, Musiri, Tiruchirappalli District, was influenced by the 3rd accused and therefore, the first respondent purposefully omitted to add the respondents 3 and 4 as accused in this case. In spite of having all the possible nature of impleading the 3rd and 4th respondent as accused persons, the investigation agency has purposefully avoided to add them as accused. Therefore, the appellant has filed a petition under Section 319 Cr.P.C. before the trial Court to direct the 1st and 2nd respondent to conduct further investigation in this case and implead the 3rd and 4th respondents as accused persons in this case. However, the trial Court dismissed the petition holding that once the proceedings crossed the stage of Section 190, the trial or committal court has to necessarily wait till the production of evidence during enquiry or trial. Challenging the same, the appellant is before this Court.



WEB COPY

7. The learned Government Advocate (Crl. Side) appearing for the respondent Police submits that during the investigation, the defacto complainant has not stated anything against the respondent Nos.3 and 4 and therefore, they have not been added as accused. However, the learned Government Advocate (Crl. Side) has admitted that it is not a sale transaction and it is only a financial transaction and the sale deeds were executed as security for the loan amount received by them. The respondent Police have conducted investigation and filed final report as against the accused Nos.1 and 2, who are the brokers and accused No.3, who is the financier.

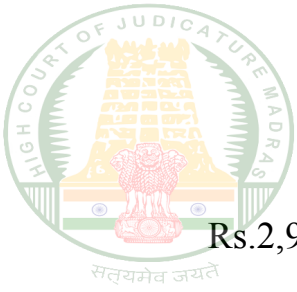
8. The learned counsel appearing for the respondents 3 and 4 submits that the accused No.3 is not a Financier and he is running a grocery shop in the village and he is a respectable person in the village. He further submits that the 3rd accused has purchased the subject property in the name of his daughter and his son-in-law. The subject documents are registered in the Sub-Registrar Office after paying the due sale consideration of Rs.10,00,000/- each. After selling the property in the year 2019, the defacto complainant has foisted this false complaint for revenue gain. It is purely a



sale transaction and it is not a case of criminal complaint. He further submits that three sons of the defacto complainant have also signed in the sale deeds executed in favour of the respondent Nos.4 and 5. Therefore, this matter has to be decided only by the Civil Court and not by this Court.

9. This Court considered the rival submissions made.

10. The case of the appellant/defacto complainant is that the property measuring to an extent of 28 ½ cents in Survey No.684/4 belongs to his father and it is worth about Rs.2,80,00,000/-. In the year 2018, his father and brothers were in need of money and therefore, they approached the accused No.3 through accused Nos.1 and 2, who are the brokers and received a sum of Rs.6,00,000/-, for which, the accused persons insisted them to execute a sale deed. Therefore, they have executed a sale deed on 22.11.2018 to an extent of 10 cents in favour of the respondents 3 and 4 for a sum of Rs.2,90,000/-. During the year 2019, the appellant, who is in need of money, has also approached the accused No.3 through the accused Nos.1 and 2. For the said loan amount, he executed a sale deed on 30.04.2019 to an extent of another 10 cents in favour of the 3rd respondent for a sum of

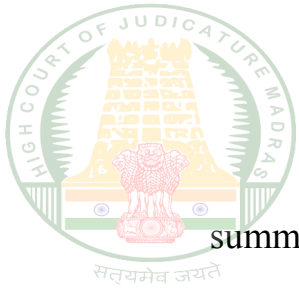


CrI.A.(MD)No.603 of 2024

Rs.2,90,000/-. The respondents 3 and 4 are the daughter and son-in-law of the 3rd accused and they are the beneficiaries of the documents.

11. The Deputy Superintendent of Police, who conducted the investigation, found that the case of the complainant is correct and this is only a loan transaction and not a sale transaction and they have also filed the final report. In the event, if they have filed the final report as against the 3rd accused treating the transaction as that of the loan transaction, then, they ought to have impleaded the respondents 3 and 4, who are the beneficiaries of those documents, as accused. The trial Court has also taken cognizance of the case, framed the charges and listed the matter for trial. Therefore, this Court is not satisfied with the reasons assigned by the trial Court for rejecting the petition filed by the appellant under Section 319 Cr.P.C.

12. Accordingly, this Criminal Appeal is allowed and the impugned order dated 15.03.2024 made in CrI.M.P.No.817 of 2024 in Spl.S.C.No.46 of 2021 on the file of the learned I Additional District Judge (PCR), Tiruchirappalli, is hereby set aside. The trial Court is directed to implead the respondents 3 and 4 as accused under Section 319 Cr.P.C, issue



Crl.A.(MD)No.603 of 2024

summons to them and after furnishing copies, question them and thereafter, to proceed with the trial. Consequently, connected miscellaneous petition is closed.

28.02.2025

ogy

NCC : Yes / No.

Index : Yes / No.

Internet : Yes / No.

To

1. The Deputy Superintendent of Police,
Musiri,
Tiruchirappalli District.
2. The Inspector of Police,
Kattuputhoor Police Station,
Tiruchirappalli District.
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



WEB COPY



Crl.A.(MD)No.603 of 2024

B.PUGALENDHI, J.

ogy

Crl.A.(MD)No.603 of 2024

28.02.2025