

Crl.R.C.(MD).No.1268 of 20226

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON : 24.03.2025

PRONOUNCED ON : 04.08.2025

CORAM

THE HONOURABLE MR.JUSTICE K.MURALI SHANKAR

Crl.R.C.(MD)No.1268 of 2022

Solairaj

... Petitioner/Respondent/Complainant

Vs.

1.Nallusamy
2.Pandiarajan
3.Gnanasekar

: Respondents/Petitioners/
Accused 1 to 3

PRAYER: Criminal Revision Petition has been filed under Section 397 r/w 401 of Cr.P.C., to call for the records relating to the order passed in Cr.M.P.No.1528 of 2022 in C.C.No.30 of 2020, dated 20.10.2022, on the file of the learned Judicial Magistrate, Manapparai and set aside the same.

For Petitioner : Mr.P.Saravanakumar

For Respondents : Mr.A.Thiyagarajan



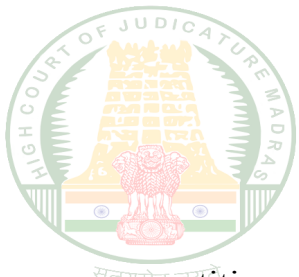
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ORDER

This Criminal Revision is directed against the order passed in Cr.M.P.No. 1528 of 2022 in C.C.No.30 of 2020, dated 20.10.2022, on the file of the Court of the Judicial Magistrate, Manapparai in discharging the respondents from the above case under Section 245 Cr.P.C.

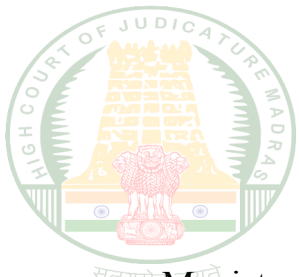
2. The case of the revision petitioner is that his family was owning a piece of property in S.F.No.100/2 to an extent of 0.26.0 Ares in Seegampatti Village, Manaparai Taluk, Trichy District ancestrally and a patta for the said property came to be issued in the name of the petitioner's father Nallu @ Nalluchamy, son of Alagar Gounder in Patta No.524, that the respondents 2 and 3 who are the strangers to the petitioner's property filed a suit in O.S.No.235 of 2012 claiming permanent injunction before the Additional District Munsif Court, Manapparai alleging that the petitioner's father executed a sale deed on 22.12.1987 in respect of the said property in favour of one Alagarsamy, father of the respondents 2 and 3 and on that basis, patta came to be issued in his favour in patta No.731, that the said sale deed dated 22.12.1987 is a document being executed by impersonating the petitioner's father Nallusamy and patta was obtained illegally, that when the



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petitioner applied under the Right to information Act before the Zonal Deputy Tahsildar of Manapparai seeking explanation in respect of patta transfer effected vide No.731 in favour of the respondents 2 and 3, the Zonal Deputy Tahsildar sent a reply stating that no such patta transfer was issued, that the petitioner has then sent complaints on 19.08.2019 to the Deputy Inspector General of Police, Trichy, the Superintendent of Police, Trichy, the Deputy Superintendent of Police, Manapparai and the Inspector of Police, Manapparai and the Inspector of Police, Manapparai directed the petitioner to appear for enquiry on 19.09.2019, but subsequently by referring to the patta enquiry proceedings pending before the revenue authorities, failed to take necessary action and that therefore, the petitioner was constrained to file a private complaint against the respondents alleging that the sale deed dated 22.12.1987 was obtained by forgery and by impersonation.

3. The learned Magistrate, upon receiving of the private complaint, after complying with the necessary requirements, has taken the case on file in C.C.No. 30 of 2020 for the offences under Sections 463, 464, 468, 471 and 474 I.P.C., and ordered for issuance of summons to the respondents. In pursuance of the same, the respondents have entered into appearance. The learned Judicial



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Magistrate has then proceeded to record preliminary evidence under Section 244 Cr.P.C. During enquiry, the petitioner has been examined as P.W.1 and 13 documents came to be exhibited through him as Exs.P.1 to P.13 and during his cross-examination by the respondents, 3 documents came to be exhibited as Exs.R.1 to R.3. The petitioner has then examined the Deputy Tahsildar – Thiru.Vellaichamy as P.W.2 and the Village Administrative Officer – Thiru.Jeyakumar as P.W.3 and exhibited 5 documents as Exs.P.14 to P.18. After the closure of the preliminary evidence by the petitioner/complainant, when the case was pending for framing of charges, the respondents 1 and 2 invoking Section 245 Cr.P.C., have filed the above petition to discharge them from the above case in Cr.M.P.No.1528 of 2022. The learned Magistrate, after conducting the enquiry, has passed the impugned order dated 20.10.2022, allowing the discharge petition and thereby discharging the respondents 1 to 3 from the above case. Aggrieved by the impugned order discharging the respondents, the petitioner/complainant has preferred the present revision.

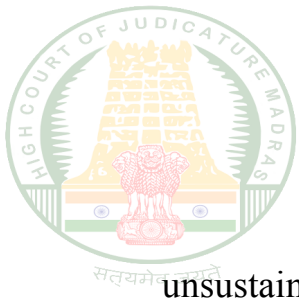
4. The case of the respondents 1 to 3 canvassed in their discharge application is that one Alagarsamy Gounder- father of the respondents 2 and 3 had purchased the land measuring 0.65 cents in S.No.100/2 in Seegampatty



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Village, Manapparai Taluk, Trichirappalli from Nallusamy, son of Alagar Gounder and after his death, the respondents 2 and 3 continued to enjoy the said property pursuant to the sale deed dated 22.12.1987, that the petitioner/complainant and others filed a suit against the accused in O.S.No.185 of 2011, on the file of the District Munsif Court, Manapparai challenging the sale deed dated 22.12.1987 executed by Nallusamy in favour of Alagarsamy Gounder as outcome of forgery, that the said suit after trial was dismissed holding that the sale deed dated 22.12.1987 is genuine, that the petitioner/complainant and others preferred an appeal in A.S.No.111 of 2020, on the file of the Subordinate Court, Manapparai and the Subordinate Court dismissed the appeal and thereby conforming the judgment and decree passed by the trial Court, that thereafter, the petitioner/complainant has initiated the above criminal case against the accused alleging that the sale deed dated 22.12.1987 is the outcome of forgery, that the District Munsif Court, Manapparai and the Subordinate Court, Manapparai have concurrently held that the sale deed dated 22.12.1987 obtained by Alagarsamy Gounder – father of the respondents 2 and 3 from the said Nallu Gounder – father of the petitioner/complainant is true, valid and genuine warranting no offences against the petitioner/ accused and that therefore, the complaint initiated by the petitioner/complainant is legally

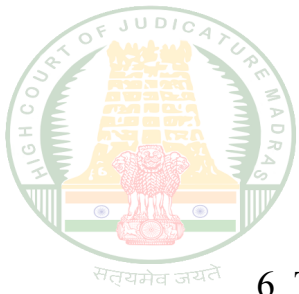


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unsustainable and as such, the respondents are entitled to discharge from the above offence.

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5. It is admitted by both parties that the second respondent along with two others – Chinnammal and Gunasekar filed a suit in O.S.No.235 of 2012 against the petitioner/complainant and 7 others claiming permanent injunction restraining them and their men from claiming through or from interfering with the plaintiffs' peaceful possession and enjoyment of the suit property under the guise of forcibly dispossessing the plaintiffs from the suit property in any manner whatsoever. The plaintiffs therein have taken a stand in the complaint that one Nallusamy for himself and as guardian for the defendants 2 to 8 alienated the suit property in favour of Alagarsamy and executed a sale deed dated 22.12.1987 and delivered the possession of the property to him, that the said Alagarsamy and after his death, the plaintiffs have been in possession and enjoyment of the property and that since the defendants had attempted to dispossess the plaintiffs forcibly from the suit property, they were constrained to file the above suit claiming permanent injunction.

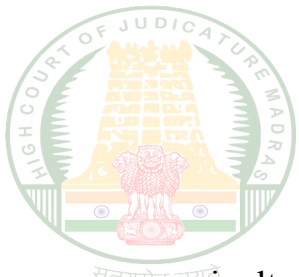


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6. The defendants have taken a stand that Alagarsamy and Nallusamy were working together in TNEB, that Nallusamy had taken hand loan from Alagarsamy and executed a mortgage deed as “Eedu Kadan Pathiram”, that though the said Nallusamy had repaid the entire loan amount, Alagarsamy had postponed the execution of cancellation deed, that the sale deed canvassed by the plaintiffs is null and void and that therefore, the plaintiffs are not entitled to get any of the relief. The learned Additional District Munsif, Manapparai, after full trial, passed a judgment and decree dated 14.06.2018, considering the evidence of P.W.2 that the sale deed was not executed by A.Nallusamy – husband of the first defendant, but by himself (P.W.2) and by holding that the plaintiffs are not entitled to get the relief of permanent injunction, dismissed the suit.

7. It is also not in dispute that the petitioner/complainant and 7 others filed a suit in O.S.No.185 of 2011, on the file of the District Munsif Court, against the respondents 2 and 3 and four others claiming declaration that the suit property is belonging to them and for recovery of possession of the suit property. In that suit, the petitioner/complainant and others have canvassed the case that Nallusamy while he was alive, had leased out the suit property in favour of Alagarsamy on weekly basis undertaking that Alagarsamy had to give 1/3rd of



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agricultural products every year, that since Alagarsamy had died, Nallusamy and after his death, the plaintiffs therein had demanded to return the possession of the suit property and that since the defendants had refused to return the suit property, the plaintiffs were constrained to file the above suit for declaration and recovery of possession.

8. It is pertinent to note that the defendants therein including the respondents 2 and 3 had taken a defence that Nallu @ Nallusamy had received sale consideration of Rs.7,500/- from Alagarsamy and executed a sale deed dated 22.12.1987 and since then Alagarsamy and after his death, his legal heirs had been in possession and enjoyment of the property. The learned Principal District Munsif, after full trial, has passed a judgment and decree, dated 06.10.2017, dismissing the suit. The unsuccessful plaintiffs in both the suits challenging the dismissal of their suits have preferred appeals in A.S.No.5 of 2021 and A.S.No. 111 of 2020 and the learned Subordinate Judge, Manapparai, considering the material records available and on hearing the arguments of both sides, has passed a judgment and decree dated 21.04.2022, dismissing the appeal in A.S.No.111 of 2020 and allowing the appeal in A.S.No.5 of 2021 and thereby granted permanent injunction as sought for by the respondents 2 and 3.



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9. As rightly contended by the learned Counsel for the revision petitioner, the first appellate Court has given a specific finding that the plaintiffs in O.S.No. 185 of 2011 have miserably failed to prove that the sale deed dated 22.12.1987 is an outcome of forgery and impersonation and that since they have admitted the possession of the suit property with the defendants therein, the defendants are entitled to get the relief of permanent injunction.

10. As already pointed out, the petitioner/complainant has lodged the above complaint mainly alleging that the sale deed dated 22.12.1987 is the outcome of forgery and impersonation. As rightly contended by the learned Counsel for the respondents, the competent civil Court has already given a finding that the petitioner/complainant and his team have miserably failed to prove the same. No doubt, though the learned Counsel for the petitioner would submit that they have already preferred the Second Appeal and the same is pending, as rightly contended by the learned Counsel for the petitioner, it is not their case that a stay order was granted by this Court. As rightly observed by the learned Magistrate, the petitioner/complainant has only been attempting to convert the civil dispute a criminal colour.

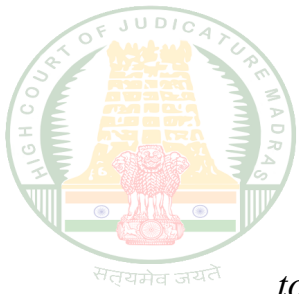


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11. At this juncture, it is necessary to refer the judgment of the Hon'ble Supreme Court in ***State by the Inspector of Police, Chennai Vs. S.Selvi and another*** reported in ***(2018) 13 SCC 455***.

“7. It is well settled by this Court in catena of judgments including the cases of Union of India v. Prafulla Kumar Samal (1979) 3 SCC 4, Dilawar Balu Kurane v. State of Maharashtra (2002) 2 SCC 135, Sajjan Kumar v. CBI (2010) 9 SCC 368, State v. A.Arun Kumar (2015) 2 SCC 417, Sonu Gupta v. Deepak Gupta (2015) 3 SCC 424, State of Orissa v. Debendra Nath Padhi (2003) 2 SCC 711, Niranjan Singh Karan Singh Punjabi vs. Jitendra Bhimraj Bijjaya (1990) 4 SCC 76 and Superintendent & Remembrancer of Legal Affairs, West Bengal v. Anil Kumar Bhunja (1979) 4 SCC 274 that the Judge while considering the question of framing charge under Section 227 of the Code in sessions cases (which is akin to Section 239 CrPC pertaining to warrant cases) has the undoubted power to sift and weigh the evidence for the limited purpose of finding out whether or not a prima facie case against the accused has been made out; where the material placed before the court discloses grave suspicion against the accused which has not been properly explained, the court will be fully justified in framing the charge; by and large if two views are equally possible and the Judge is satisfied that the evidence produced before him while giving rise



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to some suspicion but not grave suspicion against the accused, he will be fully within his rights to discharge the accused. The Judge cannot act merely as a post office or a mouthpiece of the prosecution, but has to consider the broad probabilities of the case, the total effect of the statements and the documents produced before the court, any basic infirmities appearing in the case and so on. This however does not mean that the Judge should make a roving enquiry into the pros and cons of the mater and weigh the materials as if he was conducting a trial”

12. It is also necessary to refer the judgment of the Hon'ble Supreme Court in ***Vikramjit Kakati Vs. The State of Assam*** reported in **2022 AIR SC 3597**, wherein, the Hon'ble Apex Court has referred the principles laid down by the Hon'ble Supreme Court in ***M.E.Shivalingamurthy Vs. Central Bureau of Investigation, Bengaluru*** reported in **(2020) 2 SCC 768** and the relevant principles are extracted hereunder:-

“10....

17.1. If two views are possible and one of them gives rise to suspicion only as distinguished from grave suspicion, the trial Judge would be empowered to discharge the accused.

17.2. The trial Judge is not a mere post office to frame the charge at the instance of the prosecution.”



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13. It is settled law that at the stage of framing charges, the Court has to *prima facie* consider whether there is sufficient ground for proceeding against the accused and the Court is not required to appreciate evidence to conclude whether the materials produced are sufficient or not for convicting the accused.

14. It is also settled law that while considering an application seeking discharge from a case, the Court is not expected to go deep of the probative value of the material on record, but on the other hand, the Court has to form a presumptive opinion as to the existence of the factual ingredients constituting the offence alleged, and for that purpose, the Court cannot conduct a roving enquiry into the pros and cons of the matter and weigh the evidence as if it is a main trial.

15. On considering the evidence available on record and taking note of the other facts and circumstances and the nature of the charges levelled, there is absolutely no material or evidence *prima facie* to proceed against the respondents and as such, the impugned order discharging the respondents from the above case cannot be find fault with. Consequently, this Court concludes that the Criminal Revision case is devoid of merits and the same is liable to be dismissed.



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

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NCC : Yes/No
Index : Yes/No
Internet: Yes/No
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To

The Judicial Magistrate Court, Manapparai.



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K.MURALI SHANKAR, J.

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Pre-Delivery order made in

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