



CrI.R.C.(MD)No.1271 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 28.08.2025

CORAM:

THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

CrI.R.C.(MD)No.1271 of 2023

and

CrI.M.P.(MD)Nos.16200 and 16201 of 2023

R.K.Nachammal

... Petitioner

-VS-

1.State Rep. By its,
The Inspector of Police,
District Crime Branch,
Sivagangai District.
Crime No.3 of 2012

2.Saraswathi

... Respondents

(R2 is impleaded as per order of the Court
dated 12.06.2024 in CrI.M.P.(MD)No.5541 of 2024
in CrI.R.C.(MD)No.1271 of 2023 by KKRKJ)

PRAYER : Criminal Revision Case is filed under Section 397 r/w. 401 of Cr.P.C., 1973, to call for the records in Cr.M.P.No.9522 of 2023 in C.C.No. 5 of 2015 on the file of the learned Judicial Magistrate No.II, Sivagangai and set aside the same.

For Petitioner : Mr.B.Vijay Karthikeyan

For 1st Respondent : Mr.M.Sakthi Kumar,
Government Advocate (CrI.)

For 2nd Respondent : Mr.P.Mani Ananth



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ORDER

This Criminal Revision Case is directed against the order dated 19.10.2023 passed by the learned Judicial Magistrate No.II, Sivagangai, in CrI.M.P.No.9522 of 2023 in C.C.No.5 of 2015, whereby the discharge petition filed by the petitioner/third accused under Section 239 Cr.P.C. was dismissed. The petitioner seeks discharge primarily on the ground that no prima facie case is made out against her.

Case of the Prosecution:-

2.The petitioner is arrayed as the third accused. The allegation is that the petitioner, along with her deceased husband, Ravikumar, fabricated a forged Will dated 10.05.1996 as if executed by one Ramaih in favour of Ravikumar in respect of 22 cents of land in Survey No.175/8, Kothamangalam Village. On the strength of the forged Will, a registered sale deed dated 26.04.2010 (Doc.No.834/2010) was executed in favour of A1, with A2 as an attesting witness. The petitioner is implicated for having signed as an attesting witness in the sale deed, identifying her husband at the time of execution. The prosecution contends that the accused conspired to fabricate the Will and thereafter alienated the property belonging to the husband of the *defacto* complainant, R.M. Annamalai, without valid title. The alleged offences are under Sections 420, 468, and 471 IPC.



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3.The petitioner filed a discharge petition under Section 239 Cr.P.C., 1973, contending: that she is merely the wife of the deceased Ravikumar and had no role in fabricating the Will. She only attested her husband's signature in the sale deed. Attestation of a document does not imply knowledge of its genuineness. A civil suit in O.S.No.267 of 2019, pending before the Subordinate Judge, Devakottai, concerns the subject property. However, the learned Magistrate dismissed the discharge petition, observing that the petitioner's role in attesting the signature cannot be viewed as an innocent act. Documentary evidence collected shows her participation in the fraudulent transaction. The question of her culpability requires consideration at trial.

Submissions:-

4.The learned counsel appearing for the petitioner submitted that the petitioner was only an attesting witness, not an executant of the document. The dispute is essentially civil in nature, and pendency of the civil suit bars continuation of criminal proceedings. Reliance was placed on **Joseph Salvaraj A. v. State of Gujarat**¹.

5.The learned Government Advocate (Crl.) appearing for the respondent submitted that the petitioner was part of a conspiracy along

¹ (2011) 7 SCC 59



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with her husband to fabricate a forged will and alienate the property.

Attestation was an integral part of the fraudulent transaction. Pendency of civil proceedings is not a bar when ingredients of criminal offences are disclosed, as held in ***Iqbal Singh Marwah v. Meenakshi Marwah***². A prior quash petition filed by the petitioner in CrI.O.P.(MD)No.15335 of 2018 was dismissed for default, showing an attempt to delay the trial. The petitioner and her husband had even signed a compromise agreement before mediators, admitting the encumbrance created.

6.Heard the learned counsels on either side and perused the materials available on record.

Point for Determination:-

7.The issue that arises for consideration is as to whether the learned Magistrate was justified in dismissing the discharge petition of the petitioner/third accused under Section 239 Cr.P.C. 1973,?

Legal Position:-

8.Section 239 Cr.P.C. 1973, empowers a Magistrate to discharge an accused if, upon consideration of the police report and documents, the charge is groundless. The test is whether unrebutted materials on record disclose a *prima facie* case. At this stage, the Court cannot weigh the

² (2005) 4 SCC 370



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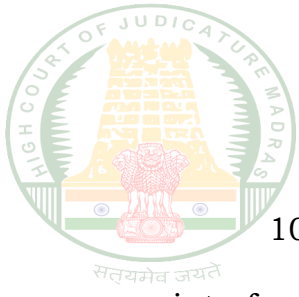
probative value of evidence. (***State of Tamil Nadu v. N. Suresh Rajan***³).

Pendency of civil litigation does not preclude criminal prosecution where allegations disclose criminality.

Analysis:-

9. Upon careful consideration, the petitioner's role is not confined to being a passive witness and her attestation has to be examined as part of the alleged conspiracy to give authenticity to a forged transaction. The presence of her signature in incriminating documents raises a strong suspicion of active participation. At the stage of discharge, it is not for this Court to undertake a roving enquiry or adjudicate the genuineness of the Will as that is a matter for trial. The pendency of O.S.No.267 of 2019 before the Civil Court does not absolve her of criminal liability. Both remedies may proceed concurrently. The dismissal of the earlier quash petition for default and the subsequent filing of this discharge petition clearly indicates a dilatory strategy. The compromise entered before mediators further reinforces the inference that the petitioner and her husband acknowledged the irregularity of the encumbrance created. Thus, there exist sufficient materials to *prima facie* proceed against the petitioner. The learned Magistrate has rightly dismissed the discharge petition.

³ (2014) 11 SCC 709



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10.In light of the foregoing discussion, this Court finds no reason to interfere with the impugned order. Accordingly, this Criminal Revision Case is dismissed. The order of the learned Judicial Magistrate No.II, Sivagangai, dated 19.10.2023 in CrI.M.P.No.9522 of 2023 in C.C.No.5 of 2015 stands confirmed. It is made clear that the learned Trial Court shall proceed independently and uninfluenced by any of the observations made herein, and the guilt or innocence of the petitioner shall be determined strictly on the basis of evidence adduced. No costs. Consequently, connected miscellaneous petitions are closed.

28.08.2025

NCC :Yes/No
Index :Yes/No
Internet : Yes
Mrn

To

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



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L.VICTORIA GOWRI, J.

Mrn

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