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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATE : 28.04.2018

CORAM

THE HONOURABLE MRS. JUSTICE R. THARANI

Crl. R.C. (MD) No.204 of 2018

V.K.S.Marichamy

.. Petitioner /Petitioner/Defacto
Complainant

Vs.

1.State represented by
Inspector of Police,
South Gate Police Station,
Madurai.

(Crime No.846 of 2017) .. Respondent/1st Respondent/
Complainant

2.S.P.Ganesan .. Respondent/2nd Respondent

Prayer : This criminal revision case is filed under Sections 397 r/w. 401 of Cr.P.C., to call for the records pertaining to the order passed by the learned Judicial Magistrate No.IV, Madurai passed in Crl.M.P.No.5122 of 2017 in Crime No.846 of 2017 dated 20.03.2018 and set aside the same.

For Petitioner : Mr.D.Srinivasa Ragavan

For 1st Respondent : Mr.K.Suyambu Linga Bharathi,
Government Advocate (Crl. Side)

ORDER

Heard Mr.D.Srinivasa Ragavan, learned counsel appearing for the petitioner and Mr.K.Suyambu Linga Bharathi, learned Government Advocate (Crl. Side) appearing for the first respondent.

2.This revision has been filed to set aside the order passed by the learned Judicial Magistrate No.IV, Madurai passed in Crl.M.P.No.5122 of 2017 in Crime No.846 of 2017 dated 20.03.2018.

3.The case of the petitioner is that the petitioner is the owner of an Offset Printing Machine bearing Sl.No.509945 HD 72 https://hcseervs.ecourtegov.in/hcseervs/ sheeted Offset Printing Machine and that there was an agreement between the petitioner and one Duraipandi. Duraipandi

filed a suit in O.S.No.41 of 2017 which is pending before the learned District Munsif, Madurai. Afterwards on 31.01.2017, there was a compromise arrived between the Duraipandi and the petitioner and said Duraipandi promised to pay a rent of Rs.90,000/- (Rupees Ninety Thousand only) to the petitioner. It is stated that Duraipandi has sold the printing press to one Ganesan on 09.10.2017. The Offset printing machine is seized by the first respondent and is in their custody. If the machine is not being used and is kept idle, the machine would become invalid and could not be used in future and prayed that the machine to be returned to the petitioner as interim measure.

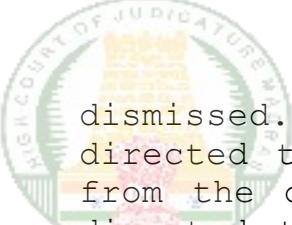
4.On the side of the petitioner, it is stated that the petitioner is the owner of the property and filed an invoice along with the petition. It is stated that the servant has sold the property to the third party without the knowledge of the petitioner. It is stated that the second respondent admitted the ownership of the petitioner in his evidence in the suit which is pending between them. It is stated that in the civil suit, the second respondent has obtained an order of injunction preventing the petitioner from entering the premises. Using this order, the second respondent sold the machine to the third party without the knowledge of the petitioner.

5.On the side of the second respondent, it is stated that he is an innocent purchaser and he has purchased the property from one Duraipandi. The said Duraipandi and the petitioner are partners and the person, who purchased the property for valuable consideration under *bonafide* sale cannot be deprived of his right and he approached this Court by filing this petition.

6.Records perused. The said Duraipandi was not impleaded as a party in this petition. Hence, the agreement between the petitioner and Duraipandi could not be decided in this petition and to find out the owner of the machine, so many documents are to be verified. Whether the petitioner and the accused Duraipandi are partners, whether there is rental agreement between them, whether the petitioner is the owner of the property, whether the entire cost of the property is paid by the petitioner and whether the second respondent is a *bonafide* purchaser are ought to be decided in this case. This involves marking of documents and recording of evidence. In this circumstance, this Court directed the petitioner to file a fresh petition before the concerned Magistrate after impleading said Duraipandi along with this respondents and the learned Judicial Magistrate is directed to give an opportunity for both sides and to prove the ownership with documents and evidence and to decide the matter on the basis of the above said observation. The Registry is directed to send the original order

<https://hcsencty.edbts.tnhighcourt.gov.in> Court forthwith.

7.With the above direction, this criminal revision case is

 dismissed. The learned Judicial Magistrate No.IV, Madurai is directed to dispose of the matter within a period of eight weeks from the date of receipt of copy of this order. The Registry is directed to send the order of this copy to the learned Judicial Magistrate No.IV, Madurai as expeditiously as possible. No Costs.

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Sd/-

Assistant Registrar (CO)

/True Copy/

Sub Assistant Registrar

To

1. The Inspector of Police,
South Gate Police Station,
Madurai.
2. The Judicial Magistrate No.IV, Madurai.
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.
4. The Section Officer,
Criminal Section,
Madurai Bench of Madras High Court,
Madurai. (2 copies)

+ 1 cc TO Mr.R.Gandhi , Advocate in SR No. 64537
+ 1 cc TO Mr.D.Srinivasa Ragavan , Advocate in SR No. 64632

Mrn

AE/JC/SAR1/04.05.2018/3P/8C

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