

IN THE COURT OF THE CHIEF JUDICIAL MAGISTRATE, ERODE.

**Present: Thiru.S. RAMACHANDRAN, B.L.,
Chief Judicial Magistrate, Erode.**

Thursday, this the 22nd day of May 2025
(Thiruvalluvar Aandu 2056 Visuvavasu Year Vaikasi Month 8th day)

M.P. No. 5 of 2025

in

C.C.No.373 of 2022

G. Suseela,
W/o. Late. Raju @ Rasupaiyan.

.. Petitioner/ Complainant

/vs/

1. C. Gurusamy,
S/o. Chinnathambi.
2. Mariyammal,
W/o. Chinnathambi.
3. C. Marimuthu,
S/o. Chinnusamy.
4. P. Ponnusamy,
S/o. Ponnusamy Gounder.
5. C. Palanisamy,
Stamp Vendor, Reg.No.TN17098/67.
6. A. Sendrayan,
S/o. Arumugam.
7. P. Ranganathan,
S/o. Ponnusamy.

.. Respondents/Accused.

The application came up for final hearing before this Court in the presence of learned Advocate Thiru.M.Mohanraj appearing for the petitioner and the learned Advocate Thiru.M.V.Chandrasekaran appearing for the Respondents and upon perusing the relevant records and upon hearing both side arguments this Court doth the following :

ORDER

1. This petition has been filed under Section 309 of Cr.P.C. for stay the proceedings of the case in C.C.No.373 of 2022 till the disposal of the Civil proceedings pending ie., A.S.No.47 of 2011 pending before the Subordinate Court, Bhavani and the Original suit pending before the District Munsiff, Anthiyur. On the ground that the petitioners/Accused were charged under Section 109, 120(B), 416, 467, 468 and 471 of IPC on private complaint and entire witnesses were examined and now the case is posted for Arguments.

2. Further, Ammapettai Police have registered an FIR in Crime No. 373 of 2005 Dt. 15/05/2005 on the basis of the order passed by the the learned Judicial Magistrate, Bhavani on complaint presented by the 1st accused as complainant under Section 200 Cr.P.C. After full investigation, the Police filed final report and on the basis of the final report, the above said court has taken the case in cognizance in C.C.No.306 of 2006. The Ist accused Gurusamy with help of his mother the 2nd accused Mariammal with false facts has filed a suit in O.S.No.625 of 2004 before the Additional District Munsiff, Bhavani for the relief of declaration of title and for injunction against the accused Nos. 1 to 3 in a case in C.C.No. 374/2022 without adding the petitioner as one of the defendant and obtained a decree b y misguiding the court and by creating a false document they sold the property which is in possession and enjoyment of the petitioner to one Marimuthu and tried to disturb the possession of the petitioner in the month of December 2009. Hence, the petitioner preferred a complaint against them on 12/01/2010 before the Ammapettai Police, since the police have not taken steps, the petitioner filed a petition before the Hon'ble

High Court of Madras in CrI.O.P.No.4098 of 2010 and the Hon'ble Court has allowed the petition and ordered enquiry by District Crime Branch Police and on the basis of the above said order, the police have registered an FIR ion Cr.No.12/2010 under Sections 120(B), 467, 468 and 471 of IPC., against the accused, but they have not conducted any investigation and filed closure report without giving any information to the petitioner, hence the petitioner has filed petition before this court in Cr.M.P.No.2076/2017. The Hon'ble High Court of Madras has ordered to try the case in C.C.No.130/2006 which was pending before the Judicial Magistrate at Bhavani along with the petition filed by this Petitioner before this court in Cr.M.P.No.2076/2017 simultaneously and pronounce the Judgment separately. The private complaint filed by the petitioner has been taken cognizance in C.C.No.373 of 2022 and the case filed and pending before the Judicial magistrate, Bhavani has been taken on file by this court in C.C.No.374 of 2000. Now the case in C.C.No.373 of 2022 is pending for arguments. The Ist accused in C.C.No.374/2022 is father of petitioner and the accused 2 and 3 are her own brothers.

3. On 31/5/2023, the petitioner came to know about the forged legal heirship certificate, when the Ist accused has produced the legal heirship certificate by saying that he is the son of the petitioner's father Guruswamy gounder. the above said certificate has been obtained by forgery, against the law with illegal means and hence the above said document is not valid. He is not the son of late S.Gurusamy gounder and son of Chinnathambi. Further the third accused Marimuthu in C.C.No.374/2022 who said to have purchased the property with forged document has filed a suit for permanent injunction as if he is in possession and enjoyment of the property before the First Aadditional District Munsiff, Bhavani in O.S.No.115/2007, the petitioner by

knowing the above said suit, filed petition to implead her as one of the party in the above said suit in I.A.No.336/2010, but the court has dismissed the petition. Against the dismissal order, the petitioner filed Revision Petition before the Hon'ble High Court of Madras in C.R.P.No.286/2011, the Hon'ble High Court has allowed the petition and ordered to try the suit along with the suit filed by the petitioner in O.S.No.280/2009 on 7/2/2013.

4. Further after knowing about the pending appeal in A.S.No.47 of 2011, the petitioner has filed petition to implead the Petitioner as one of the respondent in the appeal, but the same has been dismissed by the court against the dismissal, the petitioner filed Revision before the Hon'ble High Court of Madras in CRP.No. 4671/2014 and CRP No. 4672/2014 and the same has been allowed on 27/2/2019 and pass an order dispose the Appeal after disposal of the suits in O.S.No.115 of 2007 and 280/2009 and further ordered to dispose the above suits within six months. The above two suits were transferred to District Munsiff, Anthiyur for territorial jurisdiction and numbered as O.S.No.1/2019 and O.S.No.4 of 2019 respectively. Further the suit filed by Marimuthu in O.S.No.1/2019 has been dismissed for default and till date, no petition has been filed to restore the suit on file, hence the petitioner has taken steps to proceed his suit in O.S.No.4/2019. The dispute about the legal heir of late. Guruswamy could be decided in the suit filed by this petitioner in O.S.No.4/2019, hence till the disposal of the suit in O.S.No. 4/2019, the further proceedings in C.C.No.373 of 2022 and C.C.No.374/2022 have to be stayed, since the decree of Civil court will bind on the criminal court, otherwise the petitioner will be put to great loss and hardship. Hence, filed this petition.

5. The respondents 1,2,3,5,7 and 8 filed counter by objecting the petition and stated that the above case is posted for arguments for several months after full trial as per the order of the Hon'ble High Court of Madras. This petition has been filed wantonly only to drag on the proceedings. Already a petition has been filed for stay and the court has dismissed the same. Hence, the petition has to be dismissed.

6. The learned Advocate appearing for the petitioner/Accused advanced his arguments on ,par with the averments made in the petition. Specifically argued that the fact to be decided in the civil proceedings and in this two criminal cases are whether the document in question filed in the Civil case is genuine or forged one and further the Civil court has to decide who is legal heir of late Guruswamy gounder. Since the Civil suits are pending the genuinity of disputed will has to be established by the propounder of the will in the civil case. If the civil court decides the genuinity of the will as well as the legal heir of late Guruswamy Gounder, the decision of the civil court will bind on the Criminal court. Further, if this court decides these criminal cases, it will prejudice the interest of the parties in the civil suits. He further argued that this court is having ample power to stay the proceedings of the Criminal case till the disposal of the Civil cases and to support his argument on the basis of the judgment relied by the learned advocate appearing for the petitioners in Cr.M.P.No.6 of 2025 in C.C.No.374/2022 ie., the Judgment of Hon'ble High Court of Delhi passed in CrI.M.C. 1303/2014 and CrI.M.A.4416/2014 (Stay) in a case of Bimalendu Ghosh Dastidar Versus State and others.

7. The learned Advocate also prayed to rely on the judgments reported in AIR 1924 Madras 888 in case of Periaswamy Muthirayan and Others, 1 S.C.R. Page 536

in case of P.Jayappan Versus S.K.Perumal, First Income tax Officer, Tuticorin 1985. 1970 (3) Supreme court cases 694 in case of M/s Karam Chand Ganga Prasad and another Versus Union of India and others which was relied on by the learned Advocate appearing for the petitioners in Cr.M.P.No.6 of 2025 in C.C.No.374/2022 and prayed that as per the division of the Hon'ble courts in the above said Judgments, the decision of Civil Court will bind on the Criminal and hence the proceedings of the Criminal cases have been stayed by the courts till the disposal of the Civil cases. Therefore, prayed for stay the further proceedings of the criminal case till the disposal of civil cases pending before the Sub Court, Bhvani and District Munsiff, Anthiyur.

8. This court on perusing the entire case records finds that the petitioner has filed the above said petition to stay the further proceedings on the ground that two Civil cases and two criminal cases are instituted based on the will in question. Since, the genuinity of the will has to be decided only by the Civil Court and the decision of the Civil court bind on the Criminal court. Further specifically stated that since the civil cases are pending hence, the further proceedings of the above Criminal case has to be stayed. Further the defacto complainant who is challenging the will and who filed private complaint in C.C.No.373 of 2022 also filed the similar petition for stay further proceedings of the Criminal case till the disposal of the Civil case.

9. This court finds that the learned advocate who drafted the petition has narrated the averments made in the complaint.

10. Further this court finds the present case is pending for arguments and the case in C.C.No.374 of 2022 is pending for examination of Investigation officer. The Hon'ble High of Madras in its Order dated 9/2/2022 in CrI.O.P.No.29210 of 2017 pleased to transfer the case in C.C.No.130/2006 pending before the learned Judicial Magistrate, Bhavani to this court to try along with the private complaint filed in Cr.M.P.No. 2076/2017. Further ordered to try the two cases simultaneously and to dispose the two cases within four months from date of receipt of copy of Order. The above C.C.No.130/2006 pending before the learned Judicial Magistrate, Bhavani has been transferred to this court and this court has taken the above said case in C.C.No.374/022 and the case in Cr.M.P.No.2076 of 2017 has been taken cognizance by this court as per the Order passed by the Hon'ble 2nd Additional District Judge, Erode in C.C.No.373 of 2022 and C.C.No.374 of 2022, the prosecution has examined 12 witnesses as P.W.1 to P.W.12 and marked Ex.P.1 to Ex.P.64 and now the case is pending for examination of investigation officer. Further the case in C.C.No.373 of 2022 is pending for Arguments. (Private complaint).

11. Further this court finds that as admitted by both side, the Civil Court ie., the 2nd Additional District Munsiff, Bhavani already decided the merits of Ex,A.5 the disputed document by its Judgment in O.S.No.625 of 2004 dated 28/2/2005 and against the above Judgment, an appeal has been filed and pending before the learned Sub Court Bhavani in A.S.No. 47 of 2011. On came to about the pendency of appeal, the petitioner filed petition to implead her in the appeal as party, but the same has been dismissed by the court and against the dismissal, the petitioner filed Revision in C.R.P.No. 4671 and 4672 of 2014 before the Hon'ble High Court of Madras, the Hon'ble High Court has allowed the petition and ordered to dispose the appeal after

the disposal of the civil suits and also directed that civil suits to be disposed within 12-months. Hence, this court finds that at the time of filing above said Revision petition before the Hon'ble High Court of Madras, the petitioner knows the pendency of the criminal case, and having knowledge about the pending the criminal case and the dispute to be decided about the genuinity of the document and the legal heirship of late Guruswamy gounder, none of the parties have sought an order of stay or prayed for disposal of this criminal case after the judgment of the civil case. Further stated that the suit filed by Marimuthu in O.S.No. 1/2009 has been dismissed for default and the petitioner is proceeding the suit filed by her.

12. Further this court finds that though as per the Judgment of Hon'ble High court of Delhi reported in CrI.M.C. 1303/2014 and CrI.M.A.4416/2014 (Stay) in a case of Bimalendu Ghosh Dastidar Versus State and others this court is having power to stay further proceedings, but our Hon'ble High Court in its Order dated 9/2/2022 in CrI.O.P.No.29210 of 2017 pleased to transfer the case in C.C.No.130/2006 pending before the learned Judicial Magistrate, Bhavani to this court to try along with the private complaint filed in Cr.M.P.No. 2076/2017. Further ordered to try the two cases simultaneously and to dispose the two cases within four months from date of receipt of copy of Order and almost all witnesses in C.C.No.374 of 2022 been examined, till date the petitioner has not filed any kind of petition at the earlier point of time that is while filing revision petition before Hon'ble High Court against the order passed by the Sub Court Bhavani. Further this petitioner and the complainant in C.C.No.373 of 2022 are aware about the civil case as well as the criminal cases from the year 2006 but kept mum all these years. Hence, this petition filed belatedly cannot be entertainable at this stage. This court has to obey the order passed by the Hon'ble

High court of Madras. Further the learned advocate advanced his arguments about the notice to admit the certain documents by the Prosecutor, and relied upon the provision under Section 294 of Cr.P.C., but this court finds the question of provision under Section 294 will arise only when the parties produce certain documents in the main case, but no such petition has been filed by the petitioner in the main case, hence the arguments advanced by the learned advocate for the Petitioner/Accused about the notice of admission and provision under section 294 Cr.P.C. are rejected.

13. Finally, this Petition is dismissed.

Dictated to the Steno -Typist, transcribed and typed by her in the computer, corrected and pronounced by me in the open court, this 22nd day of May 2025.

**Chief Judicial Magistrate,
Erode.**