

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. 6 of 2025

in

C.C.No.374 of 2022

Angamuthu @ Thangaraj

.. Petitioner/ 3rd Accused.

/vs/

The State Represented by
The Inspector of Police,
Ammapettai Police Station,
Erode.

.. Respondent/Complainant.

The application came up for final hearing before this Court in the presence of learned Advocate Thiru.V. Ramakrishnan appearing for the petitioner and the learned Additional Public Prosecutor Thiru. N. Ramesh Babu appearing for the Respondent 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.374 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 Munsif, Anthiyur. On the ground that Ammapettai police have registered an FIR in Crime No. 373 of 2005 Dt. 15/5/2005 on the basis of the order passed by the the learned Judicial Magistrate, Bhavani on complaint presented by the defacto complainant under Section 200 Cr.P.C. The present case is relates to a will Ex.A.5 marked in the Civil Court proceedings on the file of the learned 2nd Additional District Munsiff in OS.No. 625 / 2004 which was filed for relief of declaration and injunction. The above said civil suit was decided on 28/2/2005 even before the registration of FIR. Against the decree and judgment of the learned 2nd Additional District Munsiff an appeal in A.S.No.47 of 2011 has been filed before the learned Sub Court Bhavani by Chinnappagounder and others against Gurusamy and others and now the same is still pending. Further one Suseela wife of late Raju @ Rasupaiyan resident of Edapadi preferred a complaint before the District Superintendent of Police, Erode on 19/1/2020 and since, no action was taken, the complainant preferred CrI.O.P.No.4098/2010 before the Hon'ble High Court of Madras and the same was allowed by the court on 3/3/2010, by directing the Police to register a case and to investigate the same. Accordingly, the DCB, Erode registered a case against the accused 1 to 8 in Cr.No.12/20 on 7/4/2010 under sections 120(B), 416, 467, 468 and 471 IPC, the police after investigation filed RCS as FAD before the learned Judicial Magistrate No.III, Erode without notice to the complainant. The Judicial Magistrate No.III, Erode accepted the report and closed the FIR without the notice to the complainant. Challenging the closure order, the complainant preferred Private complaint under Section 200 Cr.P.C., before this court, this court after conducting enquiry under Section 202 of Cr.P.C. dismissed the complaint under section 203 of

Cr.P.C. But a revision has been filed before the 2nd Additional District Court, Erode and the Hon'ble Court has set aside the order passed by this court and allowed the revision and ordered to comply the requirements under section 204 of Cr.P.C. against the A1 to A8 alone. Based on the Order of the 2nd Additional District Judge, this court has taken cognizance of the complaint in C.C.No.373 of 2022.

2. Further as per the Order of the Hon'ble High Court of Madras in Cr.O.P.No.29210/2017 dated 9/2/2022, the case pending before the learned Judicial Magistrate, Bhavani has been transferred to this court to try the same simultaneously with C.C.No.373 of 2022.

3. Since the entire crux in both cases as well as in the Civil cases pending before the learned Sub Court, Bhavani and before the District Munsiff, Anthiyur in respect of allegation of forgery of will and further since, the complainant in C.C.No. 373 of 2022 also filed petition under Section 309 of Cr.P.C. to stay the proceedings till the disposal of the civil cases, hence this petitioner filed this present petition for stay the further proceedings of this case.

4. The respondent police through the learned Additional Public Prosecutor filed objection by way of counter by objecting the petition by stating that the Hon'ble High court of Madras in its Order dated 9/2/2022 in CrI.O.P.No.29210/2017 in CrI.M.P.No./16509 of 2017 ordered to transfer the case in C.C.No.130 of 2006 to this court to try along with the case in C.C.No.373 of 2022 and to complete the trial within four weeks. As per the direction of the Hon'ble High Court, the prosecution has examined the witnesses. Hence prayed for dismissal of this petition.

5. 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 this two criminal cases are that whether the alleged will that is marked as Ex.A.5 in the civil suit is genuine or forged one. Since the Civil suits are pending the genuinity of disputed will has to established by the propounder of the will in the civil case and if the civil court decided the genuinity of the will, the decision of the civil court will bind on the Criminal court. Further, if this court decide the criminal case, it will prejudice the interest of the parties in the civil suit. 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 he relied on the Judgment of Hon'ble High Court of Delhi passed in Crl.M.C. 1303/2014 and Crl.M.A.4416/2014 (Stay) in a case of Bimalendu Ghosh Dastidar Versus State and Others.

6. The learned Advocate also relied judgments 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 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, Bhavani and District Munsiff, Anthiyur.

7. 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.

8. This court finds that the learned advocate who drafted the petition has narrated the specific reasons for stay instead he mentioned the merits of the case and evidence adduced by the expert along with the citations which compelled this court to separate the pleadings as well as judgments he relied upon. The pleadings must be concise only about the averments of the petition and arguments and the citations must be filed separately.

9. Further this court finds the present case is pending for examination of Investigation Officer. The Hon'ble High Court 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.PNo.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. The prosecution has examined six(6) witnesses as P.W.1 to P.W.6 and marked Ex.P.1 to Ex.P. 8 and now the case is pending for examination of Investigation Officer. Further the case in C.C.No.373 of 2022 is pending for examination of witnesses on the side of complainant (Private complaint). 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.

10. Further 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. Further this petitioner and the compliant in C.C.No.373 of 2022 are aware about the Ex.A.5 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.

11. 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.**