

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.09.2015

CORAM:

THE HON'BLE MR.JUSTICE B. RAJENDRAN

CRL. R.C. No. 246 of 2014

S.Sekar

...Petitioner/Petitioner

Vs.

1. Gayathiri
aged about 27 years
Law Adviser
Mahindra Finance
Dharmapuri Town Branch
Dharmapuri Taluk & District.
2. Ramesh, aged about 34 years
Branch Manager of
Mahindra Finance
Dharmapuri Town Branch
Dharmapuri Taluk & District.
3. Mubarak, aged about 39 years
Field Manager
Mahindra Finance
Dharmapuri Town Branch
Dharmapuri Taluk & District.
4. Siva, aged about 31 years
Field Manager
Mahindra Finance
Dharmapuri Town Branch
Dharmapuri Taluk & District.
5. Magendiran @ Govindaraji,
aged about 34 years
Field Manager
Mahindra Finance
Dharmapuri Town Branch
Dharmapuri Taluk & District.
6. Thangaraji
Inspector of Police
Mathur Police Station
Pochampalli Taluk
Krishagiri District.

7. Mohan
aged about 49 years
Jeep Driver
Mathur Police Station
Krishnagiri District.
8. Gopi, aged about 29 years
C/o.Thangraj
Inspector of Police
Mathur Police Station
Pochampalli Taluk
Krishnagiri District.

...Respondents/Respondent

Criminal Revision Case filed under Sections 397 and 401 of the Criminal Procedure Code, against the order passed by the learned District Munsif-cum-Judicial Magistrate, Uthangarai, Krishnagiri District, in Crl.M.P.No.5605 of 2012, dated 30.12.2013, thereby, dismissing the complaint filed by the petitioner under Section 203 of Cr.P.C.

For Petitioner : Mr.E.Kannadasan

For Respondents : Mr.J.Rajendra Prabu
for M/s.Pass Associates
for R.1 to R.5

Mr.K.Elangovan
for R.6 and R.7

No Appearance for R.8

ORDER

This Criminal Revision Case has been filed against the order passed by the learned District Munsif-cum-Judicial Magistrate, Uthangarai, Krishnagiri District in Crl.M.P.No.5605 of 2012, dated 30.12.2013, thereby, dismissing the complaint filed by the petitioner under Section 203 of Cr.P.C.

2. According to the petitioner, on 10.08.2004, he has purchased Mahendra Tractor and Trailor, bearing Regn.No.TN-24-B-4701, 475-T1 for a sum of Rs.3,58,581/- and he has paid an advance of Rs.58,000/-. For the remaining balance amount of Rs.3,00,000/-, he has availed financial assistance from the Mahindra & Mahindra Financial Services Limited. He has paid a sum of Rs.1,93,820/- in instalments and he has to pay remaining eight instalments of Rs.2,13,000/-, but, subsequently, he defaulted in payment of instalments. Thereafter, according to the petitioner, who is the borrower, the entire loan amount along with interest was paid, inspite of the same, the

vehicle was unlawfully seized by the Financier by giving all kinds of trouble. He would further add that if there is any balance amount payable by the petitioner, he is prepared to pay, but, the vehicle has been unlawfully seized, therefore, he has filed a complaint, but, the complaint was dismissed under Section 203 Cr.P.C. by the Lower Court.

3. Mr.E.Kannadasan, learned counsel appearing for the petitioner would submit that now the grievance of the petitioner is that the complaint filed by him has been dismissed under Section 203 Cr.P.C, without assigning proper reasons.

4. J.Rajendira Prabu, learned counsel appearing for the respondents 1 to 5 would bring to the notice of this Court that the petitioner is the borrower and since, he has defaulted in payment of instalments rightly the Arbitration Clause in the Arbitration Agreement was invoked and pursuant to which, an interim Arbitral Award was passed and hence, the respondents 1 to 5 with the aid of the police personnel went to the place where the vehicle was kept and has seized the vehicle. At that time, the petitioner herein along with others threatened the respondents 1 to 5 and the police personnel, using filthy language and also prevented them from taking the vehicle, therefore, the first respondent lodged a complaint, on the basis of which a case was registered in Cr.No.35 of 2010 against the petitioner arraying him as first accused for the offences under Sections 147, 148, 341, 294(b), 420, 427 and 506 (ii) IPC, and chargesheet was laid, hence, to safeguard himself from that complaint, the petitioner has come forward to file a complaint before the Lower Court, but, the Lower Court has rightly dismissed the complaint under Section 203 Cr.P.C.

5. Heard both sides and I have perused the materials available on record. By consent, the main Criminal Revision Case itself is taken up for final disposal.

6. At this juncture, I have to state that as rightly pointed out by the learned counsel appearing for the respondents 1 to 5, it is a clear case, where the borrower without paying the money trying to harass the Financier, who has advanced the money for the purchase of vehicle. Admittedly, the petitioner has defaulted in payment of instalments and hence, the Financier has rightly invoked the Arbitration Clause in the Arbitration Agreement and when the vehicle was attempted to be seized based on the interim Arbitral Award with the aid of the police personnel, the petitioner has created a big problem and therefore, the first respondent lodged a complaint, on the basis of which a case was registered in Cr.No.35 of 2010 against the petitioner arraying him as first accused for the offences under Sections 147, 148, 341, 294(b), 420, 427 and 506 (ii) IPC and chargesheet was laid. Now to circumvent all these process, the petitioner has come forward with a new theory, as if, the

respondents have unlawfully taken the vehicle. In my considered opinion, the Lower Court has rightly dismissed the complaint filed by the petitioner under Section 203 Cr.P.C., by observing no prima facie case has been made out against the respondents. Hence, I do not find any reason to interfere with the reasoned order passed by the Lower Court dated 30.12.2013. This Criminal Revision Case is dismissed.

Sd/-
Assistant Registrar (CS-III)

//True Copy//

Sub Assistant Registrar

paa

To

The District Munsif cum Judicial Magistrate,
Krishnagiri,
Krishnagiri District.

1 CC to Mr.E.Kannadasan, Advocate SR.No. 47989

1 CC to M/s.Pass Associates, Advocate SR.No. 47933

CRL.R.C.No. 246 of 2014

GR (CO)
PSI (28.09.2015)

सत्यमेव जयते

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