

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.03.2015

CORAM:

THE HONOURABLE MR.JUSTICE S.MANIKUMAR

Cr1.R.C.No.232 of 2015

Kalaimani

... Petitioner

vs.

1.Dhandapani

2.Vasanth @ Vasantha Kumar

3.Sekaran

... Respondents

Petition filed under Section 397 r/w Sec.401 Cr.P.C. to set aside the order passed by Judicial Magistrate No.I, Tirupattur in C.C.No.136 of 2013 dated 15.12.2014 discharging the accused under Section 245(2) Cr.P.C.

For Petitioner : Mr.S.Thirugnanam

O R D E R

Being aggrieved by the order made in C.C.No.136 of 2013, dated 15.12.2014, on the file of the learned Judicial Magistrate-I, Tirupattur, Vellore District, discharging the respondents, under Section 245(2) Cr.P.C., the revision case is filed.

2. Material on record discloses that alleging that the respondents have committed house trespass, theft of cables and also threatened the petitioner, a complaint to the police is seemed to have been made by the petitioner to the Inspector of Police, which according to the petitioner, has been referred to as "mistake of fact", without examining the witnesses.

3. Resultantly, the petitioner has preferred a complaint against the respondents under Section 200 Cr.P.C., to the learned Judicial Magistrate-I, Tirupattur, Vellore District. Complaint has been taken on file on 06.09.2013 and assigned C.C.No.136 of 2013. On summons, the respondents/A1 to A3 have appeared on 08.10.2013. Since then, the petitioner/complainant did not examine himself, or any other witness. A1 to A3 have been appearing in the said Court for one year, but there was no progress in the case. On 15th December 2014, when C.C.No.136 of 2013 was taken up for hearing, there was no representation.

4. Court below has recorded the proceedings as follows:

"Today at 10.45 A.M. when this case was called, this Court specifically instructed the complainant to examine himself and to be present with his Advocate. Thereafter, the complainant called thrice by this Court after 1.00 P.M. The complainant absent, no representation made on his behalf. Even till 5.45 p.m., the complainant not appeared again. This is nothing but abuse of process of Court. The complainant failed to produce any prima facie evidence. The charge seems to be groundless considering the attitude of the complainant. Hence, A1 - A3 are discharged u/s 245(2) Cr.P.C. Complaint closed."

Thus, record of proceedings extracted supra, makes it clear that though the complaint was taken on file as early as on 06.09.2013 and after issuance of summons, respondents/A1 to A3 have been appearing in the lower Court, for more than one year, petitioner/complainant has not adduced any evidence, either oral or documentary. There was no progress in the case also. Thus as rightly observed, when the complainant himself has not chosen to adduce any evidence, no useful purpose would be served in keeping the case on file. Court below has rightly taken note of the fact, that the police has also filed negative report.

Though Mr.Thirugnanam made effective submissions seeking for interference with the impugned order, as there is no manifest illegality, this Court is not inclined to accept his contentions. Criminal Revision Case is dismissed.

gms

-s/d-

Assistant Registrar()

True Copy

Sub-Assistant Registrar

To

1. The Judicial Magistrate No.I,
Tirupattur.

2. -Do- thro' The Chief Judicial Magistrate,
Thirupattur.

ev(co)
prk10/4

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