



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 09.04.2015

CORAM:

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THE HONOURABLE MR.JUSTICE S.NAGAMUTHU

Crl.R.C.(MD)NO.462 of 2014

Moorthy .. Revision Petitioner

Vs.

State rep. by
The Inspector of Police
District Crime Branch
Pudukottai
Pudukottai District .. Respondent

Prayer: Criminal Revision Petition filed under Section 397 r/w 401 Cr.P.C., against the order dated 14.05.2014 in R.No.2976 of 2013 on the file of the Judicial Magistrate Court, Alangudi.

For Petitioner :: Mr.K.Baalasundaram
For Respondent :: Mr.P.Kannithevan
Government Advocate (Crl.Side)

ORDER

The petitioner originally made a private complaint before the learned Judicial Magistrate, Alangudi against one B.J.Zahir Hussain, S/o.Jamaal Maideen alleging that he had committed offence punishable under Sections 406, 420 and 506(i) IPC. The learned Judicial Magistrate referred the same under Section 156(3) of Cr.P.C. to the police for investigation. Based on the same, the Special Sub Inspector of Police, District Crime Branch, Pudukottai, registered a case in Crime No.41 of 2013 under Sections 406, 420 and 506(i) IPC on 23.08.2013.

2. On completing the investigation, the Investigating Officer filed a final report before the lower Court stating that no such offence had been committed. On receipt of the said negative final report, the learned Judicial Magistrate issued notice to the petitioner herein. The petitioner appeared before the lower Court and filed a protest petition requesting the Court not to accept the said negative final report and to take cognizance of the offences, based on the available materials. But the learned Judicial Magistrate by order dated 14.05.2014 dismissed the said protest petition and accepted the final report. Against the same, the petitioner is before this Court with this revision petition.



3. This revision has come up today for admission.

4. I have heard the learned counsel for the petitioner and I have also perused the records carefully.

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5. The case of the petitioner in brief is that the petitioner is a Contractor with whom the accused entered into a contract, by which, the petitioner agreed to construct a building for the accused at the cost of Rs.24,13,326/-. The building was so constructed and it was handed over to the accused. But the accused has failed to pay a sum of Rs.13,83,326/-. This amounts to cheating. It is further alleged that when the petitioner asked the accused to pay the amount, he criminally intimidated him. The Investigating Officer has submitted a final report alleging that the dispute is purely civil in nature. The learned Judicial Magistrate also found from the materials available on record that the allegations do not make out any offence, as the dispute is purely civil in nature.

6. The learned counsel for the petitioner would submit that though a remedy through the civil Court is also available for the petitioner, that is not a bar for the petitioner to prosecute before the criminal Court because the act of the accused amounts to offence as enumerated in the Code of Criminal Procedure. The learned counsel would further submit that assuming that the amount due from the accused makes out a civil dispute, the offence under Section 506(i) IPC still remains and therefore, atleast for the offence under Section 506(i) IPC, cognizance should have been taken.

7. I have gone through the records carefully.

8. I do not find any force at all in the argument of the learned counsel for the petitioner. The record clearly would show that there was some dispute arising out of the contract between the petitioner and the accused. There is no element of any deception. There is no element of fraud alleging anywhere. Therefore, neither an offence under Section 406 IPC nor an offence under Section 420 IPC is made out. So far as Section 506 IPC is concerned, allegations are so trivial in nature. Therefore, the lower Court is right in declining to take cognizance and to reject the protest petition filed. Thus, I do not find any merit at all in this revision.

9. In the result, the revision petition fails and the same is, accordingly, dismissed. However, it is made clear that the petitioner can work out his remedy before the civil Court.

Sd/-

Assistant Registrar(T&P)



To

1.The Judicial Magistrate Court,
Alangudi

2.Do through the Chief Judicial Magistrate, Pudukkottai District

3.The Inspector of Police
District Crime Branch
Pudukkottai
Pudukkottai District

4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

RR

RL/5c - 8/5/2015

Cr1.R.C.(MD)NO.462 of 2014

09.04.2015