

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 20.06.2016

Coram

THE HONOURABLE MR. JUSTICE G.CHOCKALINGAM

Crl.R.C.No.771 of 2016

Mrs.Sudha Mohan

.. Petitioner/Petitioner

Vs.

The State of Tamil Nadu
Rep.by the Inspector of Police,
Pattabiram Police Station,
Chennai.

.. Respondent/Respondent

Prayer :- Criminal Revision Petition filed under Section 397 r/w 401 of Cr.P.C. against the order dated 01.07.2015 made in C.M.P.No.1974 of 2015 on the file of the Judicial Magistrate-II, Tiruvallur.

For Petitioner : M/s.C.K.M.Appaji

For Respondent : Mr.M.Mohamed Riyaz, GA (Crl.side)

ORDER

The criminal revision petition is directed against the order passed by the learned Judicial Magistrate No.II, Tiruvallur in CMP.No.1974 of 2015 dated 01.07.2015.

2.The learned counsel for the revision petitioner submitted that based on the complaint dated 22.02.2014, FIR in Cr.No.1041 of 2014 was registered by the respondent/Inspector of police, Pattabiram. After examination of witnesses, on 18.12.2014, the respondent police filed Action Dropped report, aggrieved over the report filed by the respondent police, the petitioner filed Protest Petition in CMP.No.1974 of 2015 on the file of Judicial Magistrate No.II, Tiruvallur.

3.After hearing the protest petition, the learned judge dismissed the said petition on 01.07.2015, against which the present criminal revision petition is filed before this Court.

4.The learned counsel for the petitioner contended that the learned Judge failed to look into the documents viz., the pleadings in the suit, Stay granted by the Debts Recovery Tribunal and the order of the High Court made in WP.No.10767 of 2014. It is further contended that the petitioner is in possession of the property, one Karthikeyan along with 15 others attempted to evict the defacto complainant and caused injuries to the defacto complainant. The investigating officer, during the course of investigation, without going into the above aspects closed the investigation, which is erroneous and illegal in the eye of law and pleased to order further investigation.

5.The learned Government Advocate (criminal side) contended that in this case, the investigating authority investigated the entire case and came to the conclusion that there is no materials available to accept the case of petitioner and her husband. Further, the competent court granted injunction against the defacto complainant and the order of injunction is still in force. There is no question of commission of offence under Sections 147, 448 and 323 IPC. It is also submitted that the petitioner/defacto complaint has not produced any materials in the protest petition viz., that the petitioner and her husband suffered injuries in the course of occurrence.

6.Heard the rival submissions made on both sides.

7.On a perusal of the typed set of papers filed in the present revision petition, it is seen that the petitioner preferred a complaint before the Inspector of Police, Pattabiram on 22.02.2014, which was taken as CSR.No.18 of 2014 at 20.00hrs on the same day. The reading of the complaint dated 22.02.2014 reveals that the said Karthikeyan and his wife along with 15 others entered into the house and pushed the petitioner and her husband outside the house and caused injuries. According to the petitioner, only two persons i.e., Karthikeyan and his wife committed the offence, hence the ingredients of Section 147 will not attract. The Auction purchaser/Karthikeyan filed a suit in OS.No.71 of 2014 on the file of District Munsif, Poonamallee, for grant of permanent injunction restraining the defendants his men, agents and servants from interfering or disturbing with the peaceful possession and enjoyment of the suit property and exparte interim injunction was granted on 21.02.2014, itself.

8.During the course of argument, the learned counsel for the petitioner fairly admitted that the suit is pending and the order of injunction is still in force. It is brought to the knowledge of this Court that the competent court has granted an order of injunction on 21.02.2014, restraining the petitioner and her husband not to interfere with the peaceful possession of the auction purchaser/Karthikeyan. Hence, the ingredients of Sections 448 and 323 does not arise at all.

9. Even according to the petitioner, the auction purchaser/Karthikeyan pushed the petitioner and her husband outside the house, caused injuries to them and made the petitioner to file the protest petition. The petitioner has not filed any documents to show that she and her husband were sustained injuries and no Doctor certificate has been produced in this regard before the trial Court. Even in the complaint also the petitioner has not even mentioned about the injuries sustained or the treatment taken by them.

10. In the above facts and circumstances, the investigating officer filed the action dropped report and the learned Judicial Magistrate No. II, Thiruvallur, upon perusing the documents, dismissed the protest petition in CMP.No.1974 of 2015 on 01.07.2015. This court finds no illegality or infirmity in the order passed by the trial court and the same does not warrant any interference by this court.

11. In the result, the criminal revision petition stands dismissed.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

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To

1. The Judicial Magistrate-II, Tiruvallur.
2. -do- Thro' the Chief Judicial Magistrate, Thiruvallur.
3. The Inspector of Police, State of Tamil Nadu,
4. The Public Prosecutor, High Court, Madras.

+2ccs to Mr. C.K.M. Appaji, Advocate, S.R.No.34234, 30686

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PVS (CO)
EU(22/07/2016)

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