

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.04.2017

CORAM:

THE HONOURABLE MR.JUSTICE V.BHARATHIDASAN

Criminal R.C. No.123 of 2014

Palanisamy

... Petitioner

Vs.

1. Ravichandran
2. Palaniammal
3. Duraaisamy

... Respondents

PRAYER: Criminal Revision filed under Section 397 r/w 401 of Criminal Procedure Code praying to set aside the order dated 11.09.2012 made in C.M.P.No.4360 of 2011 on the file of Judicial Magistrate No.1, Namakkal.

For Petitioner : Mr.S.Kalyanaraman

For Respondents : Mr.N.Umapathi

ORDER

Challenging the order dated 11.09.2012, dismissing the petitioner's private complaint under section 203 Cr.P.C., the present revision has been filed.

2.The petitioner earlier filed a private complaint for an offence under section 500 IPC against the respondent herein. The above complaint has been filed on the ground that a patta was granted to petitioner in Natham Settlement Scheme, and he had applied to the Government for subsidy, for the purpose of constructing a concrete house under a Government scheme in the above property. The respondents herein claiming to be the owners of the property by virtue of court decree, had given a complaint to the Revenue Officers not to grant any subsidy to the petitioner. In fact, the petitioner's property is not a subject in the Civil Court decree, but deliberately they prevented the authorities from getting subsidy to the petitioner for putting a house. Because of that, he was defamed and his reputation is spoiled and hence he filed a complaint. The learned Judicial Magistrate after taking cognizance of offence considered the complaint, and the sworn statement and the evidence of the petitioner and come to a conclusion that there

is no prima facie case made against the respondent. Hence, he dismissed the complaint under Section 203 Cr.P.C. Challenging the same, the present revision has been filed.

3. Heard Mr.S.Kalyanaraman, learned counsel on behalf of the petitioner and Mr.N.Umapathi, Learned counsel on behalf of the respondents.

4. The learned counsel appearing for the petitioner would submit that the case of the petitioner will clearly falls under Explanation 4 Section 449 of IPC. The learned Judicial Magistrate without considering the same gone into the merit of the case and come to a conclusion that the case is a false case and dismissed the complaint under section 203 Cr.P.C.

5. Per Contra, the learned counsel appearing for the respondents would submit that from the complaint and sworn in statement and other evidences, no prima case was made out against the petitioner, and absolutely no material to show that the petitioner was defamed by the Act of the respondent but it is only a civil dispute between the parties and the petitioner had given a criminal colour to it. The court below after considering all the materials rightly dismissed the complaint.

6. I have considered the rival submissions made by the counsels on either side and perused the materials on record.

7. The case of the petitioner is that, he is the owner of the property and he has applied for subsidy to construct a house in the above property. He claimed title over the property by means of patta given to him under Natham settlement scheme, and for the purpose of constructing a house, he applied for subsidy, under which has been prevented by the respondents, contending that they are the owner of the property by the virtue of a Civil Court decree, Which infact not relates to the subject matter of the dispute, by that he was defamed and his reputation has been spoiled. Along with complaint, he has filed sworn in statement and also examined three witnesses. From the perusal of complaint, the sworn in statement and other evidences, it is clear that it is a civil dispute between the parties and no prima facie case is made out for attracting an offence under Section 500 IPC.

8. So far as the contention of the learned counsel for petitioner that the Court below has gone into the merit of the case and dismissed the complaint and the Judicial Magistrate only considered the complaint and the evidence and comes to a conclusion that there is no ground available to proceed against the respondent, hence, the contention of the learned counsel cannot be considered.

9.The Court below considering the entire materials had come to a conclusion that there is no sufficient ground to proceed against the respondent and dismissed the complaint under Section 203 Cr.P.C. I have also carefully considered the materials on record and I find no illegality or irregularity in the order passed by the Court below.

10. In the above circumstances, I find no merit in the revision and liable to dismissed. Accordingly it is dismissed.

Sd/-  
Asst.Registrar

/true copy/

Sub Asst. Registrar

kv/rm

To  
The Judicial Magistrate No.1,  
Namakkal.

+1cc to M/s.N.Umapathi,Advocate sr.22530

+1cc to M/s.S.Kalyanaraman,Advocate sr.22587

Criminal R.C. No.123 of 2014

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