

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.04.2017

CORAM

THE HONOURABLE Mr.JUSTICE C.T.SELVAM

Crl.O.P.No.7473 of 2017

A.S.Bilal

..

Petitioner

Vs

M.Abdul Azeez

..

Respondent

PRAYER:- Criminal Original Petition filed under section 482 of Criminal Procedure Code praying to set aside the dismissal order, in Crl.M.P.No.618 of 2017, on the file of the XVI Metropolitan Magistrate, George Town, Chennai, dated 16.03.2017, and to direct the said Magistrate to take cognizance of the offence.

For Petitioner : Mr. K.Kannan

O R D E R

Heard the learned counsel for petitioner.

2. The order of the Court below, which is under challenge reads thus:-

" Heard. Records perused. The complainant alleges that the accused is his landlord and that he paid (Rs.6,00,000/-) to the accused, which he has refused to return. At the outset, and on perusal of the records, it is clear that the dispute is regarding money transaction and as such, a civil dispute. However, the complainant would state that the money was given to the accused, believing his words and as such the accused has with dishonest intention made false representation to the complainant and thus, induced the complainant to part with the money. However, a perusal of the documents would show that already civil suit is pending between the complainant and the accused, that too, regarding the alleged premises, which

the complainant has taken on lease. Even as per the complaint, he has not vacated the premises. Being so, the retainment of the lease amount, as alleged by the complainant was necessitated are not could be decided only on the facts of the case, which is nothing but a pure civil dispute. Hence, this Court does not find it proper to attribute criminal intent to the acts and facts, as alleged by the complainant. Hence, this Court does not find any prima facie material for any criminal offences, being committed and as such, this complaint is liable to be dismissed. Accordingly, the complaint is dismissed. "

3. Learned counsel for petitioner has submitted that, even at the time, when the petitioner was lessee of the property, the accused had effected sale thereof to another party, who had paid a huge advance. The accused has sold the property without the knowledge of the petitioner, and when return of the advance sum was sought, the same has not been paid. It is the contention of learned counsel for petitioner that, even at the time of his entering upon the lease and paying the advance, intention of the accused was to deceive the complainant/petitioner.

4. This Court is unable to accept the contentions of learned counsel for petitioner, for the case predominantly reflects civil facets.

5. The Petition stands dismissed.

Sd/-

Assistant Registrar (CS V)

// True Copy//

Sub Assistant Registrar

sd

To

1. XVI Metropolitan Magistrate,
George Town, Chennai.

2. The Public Prosecutor,
High Court, Chennai.

+1cc to Mr.K.Kannan, Advocate SR.No.23426

Cr1.O.P.No.7473 of 2017

KK (CO)
GN (27/11/2017)



WEB COPY