

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.01.2017

CORAM:

THE HON'BLE MR.JUSTICE C.T. SELVAM

Crl.R.C.No.1212 of 2016

Vimala Krishnamurthy
W/o.Krishnamurthy

.. Petitioner

Vs

1.The Inspector of Police,
Kothagiri Police Station,
Kothagiri.

2.Parvathy Bhojan
W/o.Late Bhojan

3.Santosh
S/o.Late Bhojan

.. Respondents

Criminal Revision Case filed under Section 397 and 401 Cr.P.C. against the order of learned Judicial Magistrate, Kothagiri, The Nilgiris, passed in RCS No.19 of 2016 on 19.08.2014.

For Petitioner: Mrs.Bhavani Subbarayan
for Mr.C.Kulanthaivel

For Respondents:Mr.M.Mohammed Riyaz,
Government Advocate [crl.side][R1]
Mr.S.Sithirai Anandam [R2 &R3]

O R D E R

This revision arises against the order of learned Judicial Magistrate, Kothagiri, The Nilgiris, passed in RCS No.19 of 2016 on 19.08.2016.

2. Petitioner is the de facto complainant in the case. Petitioner preferred a complaint against one Parvathy Bhojan and Latha Velkumar, partners of M/s.Lakshmi Tea Industry. A case was registered in Crime No.126 of 2013 on the file of first respondent for offences u/s.120(b), 406, 468, 477-A and 420 IPC. On completion of investigation, a final report was filed informing the case to be one of 'mistake of fact'. There

against, petitioner moved a protest petition in C.M.P.No.4438 of 2014 in RCS No.19 of 2014 on the file of learned Judicial Magistrate, Kothagiri. Learned Judicial Magistrate, under orders dated 15.06.2015, directed first respondent to conduct further investigation and file final report on or before 01.08.2015. Again, first respondent filed a final report informing the case to be one of 'mistake of fact'. Finding that final report has been filed without conducting search and seizure of documents, Court below rejected the final report and directed the first respondent to conduct further investigation properly and file further report on or before 10.03.2016. Again, a final report informing the case to be one of 'mistake of fact' has been filed. In such report, it has been informed that the dispute between parties has to be settled before civil forum and a criminal case would not be maintainable. The same was objected by petitioner/de facto complainant. Court below, under orders dated 19.08.2016, accepted the final report and rejected the objection raised by petitioner/de facto complainant. There against, the present revision has been filed.

3. Heard learned counsel for petitioner, learned Government Advocate [Crl.side] for first respondent and learned counsel for respondents 2 and 3.

4. On a perusal of final report, Court below has found as follows:

- (i) Petitioner/de facto complainant, first accused and one Latha Velukumar are daughters of late Uccha Gounder. All of them entered into a Partnership business under the name and style of 'Sri Lakshmi Tea Factory' and agreed to resolve any dispute, through Arbitration and Conciliation proceedings.
- (ii) Between 09.08.2008 and 31.07.2011, the affairs of the factory was managed by petitioner/de facto complainant and in the year 2011, though there was a loss in a sum of Rs.1,30,00,000/-, in the audit report, a sum of Rs.5,00,000/- had been shown as profit. The request of A1 to petitioner/de facto complainant to provide account statements, to clarify such position, has not been acceded to. Without verifying accounts, it was difficult to ascertain the wrong doing, if any, alleged by petitioner/de facto complainant. Further, the District Registrar, upon verification of records, stated that the partnership has not been dissolved.
- (iii) It was the statement of Manager, Indian Bank, Coonoor Branch, that at the time of handing over the business to A1 by petitioner/de facto complainant, there was a debt of Rs.1,26,88,615 and upon receipt of notice of dissolution of partnership, the account was closed. He has further stated that at the time of closure of account, A1 had settled the debt of Rs.1,18,15,605/-.
- (iv) Since the dispute was regards partnership firm, it should be settled only through appropriate civil forum.

(v) Though petitioner/de facto complainant has alleged that the entries in the account books were corrected, no proof has been produced to substantiate the same.

Court below has further found that given the aforesaid position, further investigation could not be directed and no authority has been vested in it to transfer the case to CBCID. Holding so, Court below has accepted the final report and rejected the objection raised by petitioner/de facto complainant.

Finding no reason to interfere with the order under challenge, the Criminal Revision Case shall stand dismissed.

-s/d-

Assistant Registrar (CS-II)

True Copy

Sub-Assistant Registrar

gm

To

1. The Judicial Magistrate,
Kothagiri,
The Nilgiris.

2. The Inspector of Police,
Kothagiri Police Station,
Kothagiri.

3. The Public Prosecutor,
High Court, Madras.

+1 CC to Mr. C. Kulanthaivel, Advocate sr 5509.

+1 CC to Mr. S. Sithirai Anandam, Advocate sr 5522.

सत्यमेव जयते

Crl.R.C.No.1212 of 2016

WEB COPY

SP(12/06/2018)