



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 12.09.2017

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WEB COPY

THE HONOURABLE MR. JUSTICE V. BHARATHIDASAN

Cr1.R.C(MD)No.723 of 2017

Marthandam

.. Petitioner/Petitioner/
defacto complainant

Vs.

1.State rep. by
The Inspector of Police,
Asaripallam Police Station,
Asaripallam,
Kanyakumari District.
(Crime No.257 of 2014)

.. 1st Respondent/Respondent/
Complainant

2.Latha

.. 2nd Respondent/Respondent/
Proposed Accused

PRAYER: Criminal Revision Case is filed under Section 397 read with Section 401 of Cr.P.C., to set aside the order, dated 24.08.2015, in Cr1.M.P.No.3031 of 2015, on the file of the learned Judicial Magistrate No.I, Nagercoil.

For Petitioner : Mr.D.Senthil

For Respondent No.1 : Mr.C.Mayilvahana Rajendran
Additional Public Prosecutor

ORDER

The revision has been filed against the order dismissing the petitioner's protest petition.

2. Earlier the petitioner made a complaint against his wife alleging that she has stolen a sum of Rs.1,97,600/- and thereby committed theft and based on his complaint, crime has been registered in Crime No.257 of 2014 on the file of the first respondent police against the second respondent for the offence under Sections 403, 406 and 380 IPC and after investigation, the first respondent has closed the complaint as 'mistake of fact'. Thereafter referred charge sheet notice has been issued to the petitioner. Based on that, he filed a protest petition, but the learned Judicial Magistrate dismissed the protest petition. Challenging the same, the present revision has been filed.



2. I have heard Mr.D.Senthil, learned counsel appearing for the petitioner and Mr.C.Mayilvahana Rajendran, learned counsel appearing for the first respondent and perused the records carefully.

3. The case of the petitioner is that on the date of occurrence, the petitioner borrowed a sum of Rs.1,97,600/- (Rupees one lakh ninety seven thousand and six hundred only) from the TAHDCO Bank and both the petitioner and his wife have received the money from the bank and the petitioner kept the money in his house. Later on the second respondent/wife has stolen the money. Hence, he lodged the complaint.

4. I have considered the rival submissions and the materials available on record carefully.

5. From the perusal of the records, there is absolutely no material to show that he had obtained the loan and withdrawn the amount on the said date. Perusal of the order of the trial Court shows that before borrowing the amount, both the petitioner and the second respondent jointly executed a mortgage deed in favour of the TAHDCO bank, but the bank pass book was not produced. Considering all these facts, the Court below has come to a conclusion that there is no *prima facie* case made out against the second respondent and dismissed the protest petition.

6. In the above circumstances, I find no illegality or irregularity in the order passed by the trial Court. Hence, this Criminal Revision Case is dismissed.

Sd/-
Assistant Registrar (CS-I)

/True Copy/

Sub Assistant Registrar

To

1. The Judicial Magistrate No.I, Nagercoil.
2. The Inspector of Police,
Asaripallam Police Station,
Asaripallam, Kanyakumari District.
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

+ 1 CC TO Mr.D.SENTHIL, ADVOCATE IN SR No. 78138

PJL

TE/JC/SAR-II : 25/09/2017 : 2P/5C

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