



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 13.07.2017

CORAM :

THE HONOURABLE MR. JUSTICE V. BHARATHIDASAN

CrI.R.C.(MD) No.469 of 2011

K.Valliammal

... Petitioner/Complainant

Vs.

1.Palaniammal

2.Nagarajan,

Inspector of Police,
Tenkasi Police Station,
Tirunelveli District.

... Respondents/Accused

Petition filed under Sections 397 read with 401 Cr.P.C, to set aside the order passed by the learned Chief Judicial Magistrate, Tirunelveli in Cr.M.P.No.1075 of 2010 dated 24.11.2010 and direct the Chief Magistrate to take the complaint on file and issue summon's and proceed with the trial in accordance with law by allowing this revision petition.

For Petitioner : Mr.P.T.Ramesh Raja

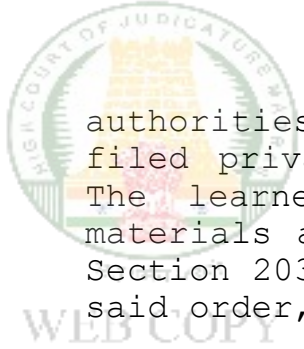
For 2nd Respondent : Mr.C.Mayilvahana Rajendran,
Additional Public Prosecutor.

ORDER

Challenging the order of dismissal of the private complaint filed by the petitioner by the trial Court, under Section 203 Cr.P.C., the present Criminal Revision Case has been filed.

2.The case of the petitioner in short is as follows:-

The first respondent herein has received a sum of Rs.42,000/- from the petitioner. When the petitioner demanded money from the first respondent, she has given a complaint against the petitioner before the second respondent police on 13.03.2010. During the course of investigation, the second respondent police examined the petitioner. The Sub Inspector of Police has also enquired the petitioner and the first respondent herein. At the time of enquiry, the second respondent has directed the first respondent to pay only Rs.10,000/- to the petitioner. When the petitioner resisted the same, the second respondent has abused the petitioner in filthy language and threatened her and hence, she accepted the offer made by the second respondent. Thereafter, on 21.04.2010, at about 10.00 a.m, the second respondent called the petitioner to come to the police station. Then, the second respondent compelled the petitioner to receive only a sum of Rs.5,000/- to the petitioner, when she refused to accept the same, the second respondent threatened her to sign in blank papers and abused her in filthy language and twisted her hand. Thereafter, she went to the Government Hospital and taken treatment. Subsequently, the petitioner made complaint to various



authorities. Since there was no action taken, the petitioner has filed private complaint to the learned Chief Judicial Magistrate. The learned Chief Judicial Magistrate, after considering the materials available on record, dismissed the said application under Section 203 of the Code of Criminal Procedure, 1973. Challenging the said order, the present Criminal Revision Case has been filed.

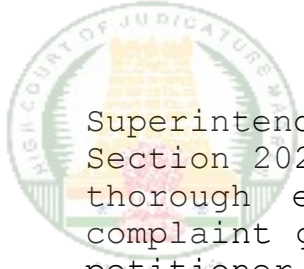
3.I have heard Mr.P.T.Ramesh Raja, learned counsel for the petitioner and Mr.C.Mayilvahana Rajendran, learned Additional Public Prosecutor for the respondents and perused the materials available on record carefully.

4.Learned counsel for the petitioner would submit that there are *prima facie* materials available on record to show that the second respondent has committed the offence punishable under Sections 323, 384 and 506 (i) of IPC. But the Court below without considering the same has dismissed the complaint on the ground that there is no case made out to proceed with the complaint.

5.Learned Additional Public Prosecutor for the second respondent submitted that considering the complaint given by the petitioner, an enquiry was ordered by the learned Chief Judicial Magistrate, to the Deputy Superintendent of Police, Tenkasi, and during the enquiry, it reveals that the first respondent has received a sum of Rs.10,000/- with interest at the rate of Rs.1,500/- payable in every week. Since the petitioner demanded an exorbitant amount of interest, the first respondent filed a complaint against her under the provisions of Tamil Nadu Prohibition of Charging Exorbitant Interest Act on 15.03.2010. During the enquiry, the petitioner herself accepted to receive Rs.10,000/- and given a letter to that effect. Since the first respondent has failed to pay the above said amount, the petitioner and her daughter and son have abused the first respondent in filthy language and threatened her. Based on a complaint given by the first respondent, the case in Crime No.186 of 2010 has been registered against the petitioner and her daughter and son under Sections 294(b) 506 (ii) IPC read with Section 4 of the Tamil Nadu Prohibition of Charging Exorbitant Interest Act. Thereafter, the petitioner's son was arrested on 23.04.2010 and the petitioner and her daughter obtained anticipatory bail. But this was not disclosed in the complaint filed by the petitioner which was filed subsequently and only in order to take revenge, the petitioner filed the present complaint against the respondents to abuse of process of law. Therefore, the Court below, after considering the entire materials available on record, dismissed the petition holding that there is no case made out to proceed with the complaint.

6.I have considered the rival submissions.

7.From the perusal of the materials available on record and the order passed by the Court below, it is seen that after receipt of the complaint, the Chief Judicial Magistrate directed the Deputy



Superintendent of Police, Tenkasi to conduct an enquiry under Section 202 Cr.P.C and the Deputy Superintendent of Police conducted thorough enquiry and has filed a report stating that on the complaint given by the first respondent herein it is found that the petitioner agreed to receive Rs.10,000/-. When the same was not paid to the petitioner, the petitioner, her son and daughter have threatened the first respondent and abused her in filthy language. Hence, a crime was registered against the petitioner and her son and daughter in Crime No.186 of 2010 on 22.04.2010 under Sections 294(b) and 506 (ii) IPC read with Section 4 of the Tamil Nadu Prohibition of Charging Exorbitant Interest Act. There is absolutely no whisper about the earlier complaint given by the first respondent to register a case against the petitioner but it merely says that she was threatened to accept Rs.10,000/- and when that amount was not paid to her in full to the petitioner and the second respondent abused the petitioner in filthy language and twisted her hand. In the complaint, it is nowhere stated about the subsequent registration of another complaint against her and the arrest of the petitioner's son.

8.Considering all the above materials, the Court below has rightly come to the conclusion that the present private complaint has been filed only to take revenge and is abuse of process of law and no prima facie case is made out to proceed with the private complaint. I find no infirmity or irregularity in the order passed by the Court below and accordingly, the Criminal Revision Case is dismissed.

Sd/-

Assistant Registrar(AD-II)

/True Copy/

Sub Assistant Registrar

To

1.The Chief Judicial Magistrate, Tirunelveli.

2.Inspector of Police,
Tenkasi Police Station,
Tirunelveli District.

SMS

JS/JC/SAR.1/2.8.2017/3P-3C

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