

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 29.10.2018

CORAM:

THE HONOURABLE MR. JUSTICE P.VELMURUGAN

Crl.R.C.No.752 of 2013

Sadhasivam

...Petitioner

Vs.

1. Senthilkumar

2. Velusamy

...Respondents

Prayer: This Criminal Revision filed under Section 397 and 401 of Code of Criminal Procedure to set aside the order dated 19.04.2007 made in R.No.17315 of 2006 passed by the learned Judicial Magistrate No.2, Tiruppur, allow this revision and direct the learned Judicial Magistrate to take the complaint filed under Section 200 Cr.P.C. on the file and proceed further in accordance with law.

For Petitioner : Mr.J.Franklin

For Respondent : No Appearance

O R D E R

This Criminal Revision has been filed to set aside the order dated 19.04.2007 passed by the learned Judicial Magistrate No.2, Tiruppur and direct the learned Magistrate to take up the complaint on file which has been filed under Section 200 Cr.P.C.

2 It is the case of the petitioner that the petitioner is a building contractor. The respondents 1 and 2 are close relatives of the petitioner being nephew and brother-in-law. The petitioner and 1<sup>st</sup> respondent had entered into an oral agreement for the construction of house. It is alleged that, Sasikumar, brother of 1<sup>st</sup> respondent, paid a sum of Rs.2,10,000/- to the petitioner in 3 installments. The petitioner had completed the construction by February 2004. But, the respondents did not pay the balance amount of Rs.3,64,000/- to the petitioner. After continuous demands, the respondents agreed to pay the balance amount in front of the panchayat. Finally, the first respondent has refused to pay the balance amount.

3. Hence, the petitioner lodged a complaint before the CCB PS, Tiruppur. The Police registered a FIR. The respondents were continuously threatening the petitioner to withdraw the case before the Police Station. Hence, the petitioner filed a private complaint in R.No.17315 of 2006 before the learned Judicial Magistrate No.2, Tiruppur under Section 213 Cr.P.C. After full fledged trial, the learned Judge had come to the conclusion that the dispute is Civil in nature and there is no prima facie case made out. Therefore, the learned Judge dismissed the petition under Section 203 Cr.P.C. by order dated 19.04.2007. As against the order dated 19.04.2007, the petitioner has preferred this Criminal Revision before this Court.

4 The learned Counsel for the petitioner would submit that the respondents threatened the petitioner. Therefore, he filed police complaints. However the police did not investigate the matter. Therefore, private complaint was filed by the revision petitioner before the learned Magistrate. The learned Magistrate found that the dispute is civil in nature and there is no prima facie case made out against the respondents.

5 When the matter is called, there is no representation for the respondents and notice has been served on the respondents.

6. Heard the learned counsel for the petitioner and perused the materials available on record.

7. On a perusal of records, it shows that the revision petitioner has not proved that the respondents threatened him and there is no records to support his case. Under these circumstances, the learned Magistrate rightly found that the dispute is civil in nature and therefore dismissed the petition. This Court asked the learned counsel for the petitioner to produce the copy of the complaint filed before the Police. He does not have any copy of the complaint. The petitioner should have retained at least the copy of the complaint given before the police. In the absence of the same, it is not possible to ascertain the nature of the complaint. The petitioner has not proved that the respondent threatened him. The learned Magistrate rightly found that the dispute is civil in nature. Further reading of complaint, prima facie does not disclose any offence. There is no perversity in the order passed by the learned Magistrate and there is no merit in the revision petition. Under these circumstances, the revision is liable to be dismissed.

8 In the result, the Criminal Revision is dismissed.

Sd/-  
Assistant Registrar

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Sub Assistant Registrar

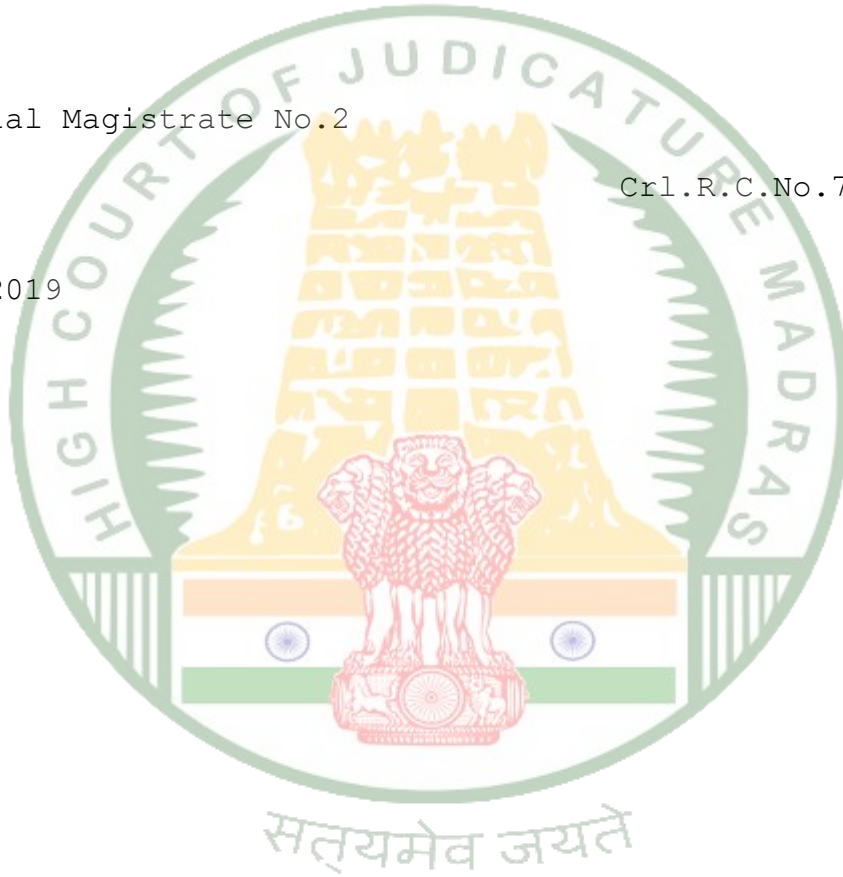
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To

The Judicial Magistrate No.2  
Tiruppur.

Crl.R.C.No.752 of 2013

mp(co)  
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