

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 07.03.2018

CORAM:

THE HONOURABLE MR. JUSTICE N.SATHISH KUMAR

Crl.R.C.No.426 of 2011

V.Elumalai

...Petitioner/Complainant

Vs.

1. K.Rukmani
2. E.Sasikumar
3. E..Kalpana

...Respondents/Accused

This Criminal Revision filed under Section 397 read with 401 of Code of Criminal Procedure praying to allow the criminal revision case by setting aside the order of the learned II Metropolitan Magistrate, Egmore dated 28.01.2009 made in M.P.No.2878 of 2008.

For Petitioner : Mrs.C.R.Rukmani,

For Respondent : Mr.G.T.Subramanian

O R D E R

This revision is filed as against the dismissal order dated 28.01.2009 passed by the learned II Metropolitan Magistrate, Egmore, in M.P.No.2878 of 2008, dismissing the complaint filed for the offences under Sections 294(b), 420, 441, 453, 466, 468 and 471 r/w 506 (ii) of I.P.C.

2 The learned Magistrate, before taking cognizance of the complaint, examined the complainant as a witness and one Kathirvelu as P.W.1 and also perused Exs.P1 to P3 and found that no cognizance can be taken on the basis of the above evidences.

3 The facts leading to the filing of this revision are as follows:

3.1 The revision petitioner is the husband and he filed a private complaint as against his wife and children, for the reason that they have trespassed in to his property. The trial court taking note of the statement and the evidence of the complainant and after perusing the complaint lodged by the complainant, found that there are discrepancies in his statement and evidence and hence held that cognizance cannot be taken, as

there is no details as to the date of trespass etc., found in the complaint or in the evidence.

4 This Court has also perused the materials and after hearing both sides, find that this complaint is nothing but a result of some strange relationship between the husband and wife in matrimonial dispute. Thus, compromise decree dated 30.03.2017 was passed by this Court in T.O.S.No. 40 of 2006, recording the compromise memo dated 17.11.2006, wherein it was agreed by both the parties that the property in Door No.8/4, Subbarayalu Chetty Street, 1st land, Nammalwarpet, Chennai-12 shall be given up in favour of the respondents who are the wife and children of the complainant and the complainant shall retain the property in No.4/115, Pandurangan Koil Street, Nammalwarpet, Chennai.

5 It is stated by the learned counsel for the revision petitioner that these properties are at the same compound and the respondents were already living in the property. It is also brought to the notice of this court by both the counsels, that a Civil Suit has already been filed by the revision petitioner for recovery of possession.

6 In view of these facts and in the absence of any evidence to attract the ingredients of the offences mentioned in the complaint, this court does not find any infirmity or illegality in the order passed by the learned Magistrate.

7 Accordingly, this Criminal Revision Petition is dismissed.

Sd/-
Deputy Registrar

//True copy//

Sub Assistant Registrar

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To

The Metropolitan Magistrate II, Egmore

+1cc to Mr.C.R.Rukumani, Advocate SR.No.17892

+1cc to Mr.G.T.Subramani, Advocate SR.No.17277

Cr1.R.C.No.426 of 2011

GN(27/03/2018)