

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT****DATED: 18.01.2018****CORAM:****THE HONOURABLE MR. JUSTICE P.N.PRAKASH****Cr1.R.C. (MD) No.36 of 2018**

S.Kalyanakumar : Petitioner/de-facto complainant
Vs.

1.R.Roja Ramani
2.S.Ganesan @ Ganesha Moorthy
3.S.Vijayakumar
4.The State,
represented by
The Inspector of Police,
Theppakulam Police Station,
Madurai.
(Crime No.310 of 2007)

: Respondents/Respondents.

PRAYER: Criminal Revision Case is filed under Section 397 r/w 401 of the Criminal Procedure Code praying this Court to call for the entire records relating to the impugned order passed in C.C.No.127 of 20120, dated 26.7.2013, on the file of Judicial Magistrate No.I, Madurai and to set aside the same and to take C.C.No.127 of 2010 on file.

For Petitioner	: Mr.C.Gangai Amaran
For Respondent-1	: Mr.C.Godwin
For Respondents 2 and 3	: Mr.Ananth C.Rajesh
For Respondent-4	: Mr.C.Mayil Vahana Rajendran Additional Public Prosecutor

ORDER

The Petitioner had filed a private complaint which was taken on file as C.C.No.127 of 2010 by the Judicial Magistrate No.I, Madurai and process was issued to the accused. From the year 2010 to 2013, the Petitioner was not diligently prosecuting the private complaint and therefore, the same was dismissed on 26.07.2013. Challenging the same, present Criminal Revision Case has been filed.



2. Heard the learned counsel for the Petitioner and the learned counsels appearing for the respondents 1 to 3 and the learned Additional Public Prosecutor appearing for the fourth respondent/State.

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3. The learned counsel for the Petitioner submitted that the trial Court ought not to have dismissed the private complaint in limini.

4. The learned counsel appearing for the respondents refuted the contentions made by the learned counsel for the Petitioner.

5. This Court gave anxious consideration to the rival submissions made on either side.

6. On a reading of the complaint in C.C.No.127 of 2010, the complainant has stated that the accused No.2 and 3 are his own brothers; that all the three brothers inherited the shop premises bearing Door No.5-B, Subethar Thoppu; that A2 and A3 gave a false police complaint, based on which, the complainant was taken by the Theppakulam Police Station; that the complainant was forced to execute a Release Deed in respect of the shop in favour of A2 and A3; that the complainant has filed a suit in O.S.No.2000 of 2004 before the Additional District Munsif, Madurai Town, for setting aside the Release Deed; that during the pendency of the suit, A2 and A3 had entered into a Sale Agreement with A1; that A1, A2 and A3 forcibly dispossessed the Petitioner on 02.09.2007; that on the complaint given by the Petitioner, an FIR was registered in Cr.No.310 of 2007 and the same was closed as 'mistake of fact' on 07.07.2009 and hence the complaint.

7. On a reading of the complaint, it is obvious that for the transaction that is said to have taken place in the year 2004, the complainant has approached the Police only in the year 2007. The allegations in the complaint does not inspire the confidence of this Court. Admittedly, A2 and A3 are the brothers of the complainant and the complainant had executed a Release Deed in favour of his brothers and thereafter, he has filed a suit to set aside the Release Deed. Thus, a purely civil transaction is being given a criminal colour. In such view of the matter, this Court does not find any infirmity in the order passed by the learned Judicial Magistrate No.I, Madurai warranting interference by this Court.

8. In fine, the Criminal Revision Case stands dismissed.

Sd/-

Assistant Registrar(CS-I)

/True Copy/



To

1. The Judicial Magistrate No.I,
Madurai.

2. The Inspector of Police,
Theppakulam Police Station,
Madurai.

3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1cc to Mr.C.GANGAI AMARAN Advocate in SR. NO.1044

vsn

MV:GT:SAR3:12/02/2018/3P/5C

Order made in

Cr1.R.C. (MD) No.36 of 2018

Dated:-

18.01.2018