



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 24.01.2018

CORAM:

THE HONOURABLE MR.JUSTICE P.N.PRAKASH

Crl.R.C.(MD)No.43 of 2018

M.Ramakrishnan

: Petitioner / Complainant

-Vs.-

1.Ravindran

2.Malathi

: Respondents / Accused

Prayer: Criminal Revision Case is filed under Section 397 r/w 401 Cr.P.C., to call for the records relating to the order passed in Crl.M.P.No.988 of 2016 dated 19.12.2017, on the file of the learned Judicial Magistrate No.II, Thanjavur and set aside the same.

For Petitioner

: Mr.V.Illanchezian

O R D E R

For the sake of convenience, the parties will be referred to as the complainant and the accused.

2. It is the specific case of the complainant that the property in question measuring 41103/4 square feet equivalent to 9¾ cents originally belonged to one Vasantha Kumari, the wife of the complainant. Ravindran (A1) purchased the said property on 27.03.1987 for a sum of Rs.33,500/- (Rupees Thirty Three Thousand and Five Hundred only). Thereafter, Ravindran (A1) was not able to construct any building in the said property, because, it was an unauthorised layout. According to the complainant, Ravindran (A1) induced the complainant to once again purchase the property and entered into a sale agreement dated 15.03.1989 and thereafter, did not comply with the said sale agreement. In this regard, the complainant gave a private complaint, based on which, an order under Section 156(3) Cr.P.C., was passed by the learned Judicial Magistrate No.II, Thanjavur, directing the police to register an FIR. Accordingly, the Medical College Police registered an FIR in Crime No.112 of 2016 under Sections 406, 420 r/w 120(B) of the Indian Penal Code against the accused and after completing the investigation, have filed a closure report. The complainant filed a protest application in Cr.M.P.988 of 2016 before the learned Judicial Magistrate No.II, Thanjavur, which has been rejected by the learned Magistrate, by order dated 19.12.2017 and the closure report has been accepted. Challenging the order dated 19.12.2017 in Cr.M.P.988 of 2016, the complainant has filed the present Criminal Revision Case.



3. Mr.V.Illanchezian, learned counsel for the complainant submitted that there are prima facie materials in the First Information Report for the police to take appropriate action against the accused and instead, the police have erroneously closed the case as mistake of fact.

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4. This Court carefully perused the complaint lodged by the complainant, which formed the basis of the First Information Report.

5. Even, according to the complainant, the property in question belonged to his wife Vasantha Kumari and she sold the property to Ravindran (A1) on 27.03.1987. It is the contention of the complainant that since Ravindran (A1) was not able to construct any building, he exhorted the complainant to re-purchase the property. At that juncture also, the complainant could have refused to re-purchase the property. However, the complainant entered into an agreement dated 15.03.1989 with Ravindran (A1) for re-purchasing the property, in which, a dispute had arisen.

6. In the opinion of this Court, the complainant could have filed a suit for specific performance based on the said agreement. However, since the agreement is dated 1989 and more than three years have lapsed, the complainant appears to have filed the present police complaint against the accused alleging that the accused had cheated the complainant.

7. In the opinion of this Court, while dealing with an application under Section 397 Cr.P.C., the Court has to see whether the order passed by the Court below suffers from impropriety or illegality. This Court does not find any impropriety or illegality in the order passed by the Court below warranting interference in respect of a transaction that is said to have taken place in the year 1987 to 1989.

8. In such view of the matter, this Criminal Revision Case is closed with liberty to the petitioner to work out his remedies in the manner known to law, if available.

Sd/-

Assistant Registrar(Crl. side)

/True Copy/

Sub Assistant Registrar

To
The Judicial Magistrate No.II,
Thanjavur.

Order made in
Crl. R.C. (MD) No.43 of 2018
24.01.2018