



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON: 17.04.2018

DELIVERED ON : 20.06.2018

WEB COPY

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THE HONOURABLE MRS. JUSTICE R. THARANI

CrI. R.C.(MD)No.219 of 2018

Ganapathy

.. Petitioner

Vs.

Liviston Jackfer

.. Respondent

Prayer : This criminal revision case is filed under Sections 397 r/w. 401 of Cr.P.C., to call for the records pertaining to the Judgment passed by the learned Judicial Magistrate No.I, Nagercoil in C.M.P.No.590 of 2018 dated 03.03.2018 dismissing the application under Section 156(3) Cr.P.C. and set aside the same and direct the 1<sup>st</sup> respondent to register the case in accordance with law.

For Petitioner : Mr.S.Suresh Kumar

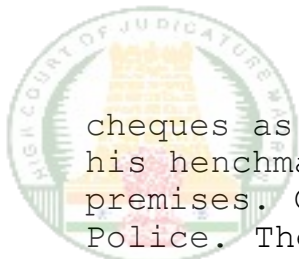
ORDER

Heard Mr.S.Suresh Kumar, learned counsel appearing for the petitioner.

2.This petition has been filed to set aside the Judgment passed by the learned Judicial Magistrate No.I, Nagercoil in C.M.P.No.590 of 2018 dated 03.03.2018 dismissing the application under Section 156(3) Cr.P.C.

3.The petitioner has filed a complaint before the learned Judicial Magistrate No.I, Nagercoil under Section 156(3) of Cr.P.C. The same was taken on file in C.M.P.No.590 of 2015 dated 03.03.2018. The learned Judicial Magistrate instead of referring the matter for investigation, dismissed the complaint filed by the petitioner.

4.On the side of the petitioner, it is stated that the petitioner is the tenant and the shop is in the name of the respondent. Both the petitioner and the respondent made an oral agreement that the petitioner has to pay a sum of Rs.2,000/- (Rupees Two Thousand only) per day to the respondent. The petitioner invested a sum of Rs.5,00,000/- (Rupees Five Lakhs only) in the shop and due to storm, the petitioner could not conduct the business and could not pay Rs.2,000/- per day to the respondent. The respondent insisted the petitioner to vacate the premises and obtained three



cheques as security. Even afterwards, on 03.12.2017 with the help of his henchman, the respondent threatened the petitioner to vacate the premises. On 13.01.2018 the petitioner lodged a complaint before the Police. There is no response. Hence, the petitioner filed a suit in O.S.No.3 of 2018. On 10.01.2018, at about 12 a.m., the respondent and his men entered into the premises and damaged the shop and caused loss of Rs.5,50,000/- (Rupees Five Lakhs and Fifty Thousand only) to the petitioner. The same was intimated to the petitioner by his workers, namely Mani and Tharmaraj who were sleeping inside the shop. The petitioner filed a complaint before the learned Judicial Magistrate under Section 156(3) Cr.P.C. The learned Judicial Magistrate instead of forwarding the complaint to the police has dismissed the petition.

5. On the side of the respondent, it is stated that the petitioner issued three cheques to the respondent. To evade payment, the petitioner has filed this false complaint. No offence is made out.

6. Records perused. The petitioner has filed the petition under Section 156 Cr.P.C., which is dismissed by the lower Court. If aggrieved, the petitioner could have filed private complaint under Section 200 Cr.P.C., and there is no need for filing this revision petition. The petitioner claimed that the respondent caused damage to the petitioner's shop. The occurrence is said to have taken place on 10.01.2018 at 12 a.m., but the petitioner is said to have given the complaint before the Police on 13.01.2018. There is no reason stated for filing the complaint belatedly.

7. Whether the petitioner issued the cheque for discharge of his liability or under threat can be decided in the cheque case, if at all any such case is filed by the respondent. For damages caused to the shop, the petitioner asked for compensation and the prayer in the complaint is for recovery of the movable properties taken away by the respondent and for getting compensation and not for any relief of punishment for the respondent who was alleged to have committed the offence.

8. If the trial Court dismissed the complaint, the petitioner is having an option to file a private complaint against the respondent. Instead of availing that opportunity, the petitioner has come forward with this petition. Hence, this criminal revision petition is not maintainable at this stage. The Criminal Revision Petition is dismissed.

Sd/-

Assistant Registrar (CS-II)

/True Copy/



To

The Judicial Magistrate No.I, Nagercoil.

+1cc to M/S.S.Suresh Kumar, Advocate SR.No. 68864

Cr1. R.C.(MD)No.219 of 2018

20.06.2018

mrn

JM/SV/SAR 3/23.07.2018/3P/3C