



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 27.09.2018

CORAM:

WEB COPY

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

Crl.R.C (MD) No.541 of 2018

Nadachi Thangam : Complainant/Petitioner

Vs.

1.Subbiah
2.Muthuswamy
3.Sudalaimani

: Respondents/Respondents

PRAYER: Revision filed under Section 397 read with Section 401 of the Code of Criminal Procedure, to set aside the order passed in Crl.M.P.No.4823 of 2016 dated 04.05.2018 on file of learned Judicial Magistrate, Nagercoil.

For Petitioner : Mr.P.Thirumahilmaran
For R-1 : Mr.C.Susikumar
For R-2 and R-3 : Mr.T.Selvakumaran

ORDER

This criminal revision case is filed to set aside the order dated 04.05.2016 passed in Crl.M.P.No.4823 of 2016 on the file of the learned Judicial Magistrate, Nagercoil.

2.Heard the learned counsel appearing for the petitioner, the learned counsel appearing for the first respondent and the learned counsel appearing for the respondents 2 and 3.

3.A private complaint was lodged by the revision petitioner alleging that the property which was purchased through Court auction, was damaged by the respondents herein on 30.05.2016. When she gave a complaint to the police, they did not take the complaint for investigation. Hence, the private complaint under Section 200 Cr.P.C., was filed. The trial Court after examining the *de facto* complainant had dismissed the complaint under Section 203 Cr.P.C without proper appreciation of the evidence.

4.It is contended by the learned counsel for the revision petitioner that when adequate records pertaining to the purchase of the property and application to give police protection while taking possession of the property were filed along with complaint, the trial Court had failed to consider those documents. While damage to the property worth about Rs.3,000/- was caused by the



respondent, the Court below has dismissed the private complaint on hyper-technical ground.

5. On perusal of the records and the impugned order, this Court finds that though the revision petitioner in a private complaint claims that she has taken possession of the property through Court on 14.03.2015 and in peaceful enjoyment of the same, on 30.05.2016 early morning when she went to her property was found that mud fencing of the property being damaged and she suspected the respondents and when she enquired them, they have threatened her that they will liquidate her and her family. It is also found in the complaint that in O.S.No.94 of 2010 the revision petitioner herein has deposited the sale consideration for the said property and there is some dispute in withdrawing the money.

6. On cumulative assessment and analysis of the records placed by the revision petitioner and the evidence relied by her, when there is no specific evidence to prima facie try the accused persons for the alleged damage of the compound, the trial Court has rightly dismissed the private complaint and the reason for dismissal also properly recorded by the trial Court. In the absence of material evidence to show that the mud fencing of the revision petitioner was damaged and that damage was caused by the respondents, there is no prima facie materials to proceed further. The revision petitioner having failed to produce those documents cannot question the veracity of the order passed by the trial Court. Hence, this Criminal Revision Case is dismissed.

Sd/-

Assistant Registrar (AD-I)

/True Copy/

Sub Assistant Registrar (CS-III)

To

The Judicial Magistrate, Nagercoil.

Copy To:-

The Section Officer, Criminal Section,
Madurai Bench of Madras High Court,
Madurai. (2 Copies)

- + 1 CC TO Mr.P.THIRUMAHILMARAN, ADVOCATE IN SR No. 87351
- + 1 CC TO Mr.M.SUBASH BABU, ADVOCATE IN SR No. 88076
- + 1 CC TO Mr.T.SELVAKUMARAN, ADVOCATE IN SR No. 87385

CP

TE/PM/SAR-3 : 25/10/2018 : 2P/7C