



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 14.02.2018
Delivered on : 22.02.2018

WEB COPY

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THE HONOURABLE MR. JUSTICE R.PONGIAPPAN

Crl.O.P. (MD) No.3303 of 2013

P.Muthammal

... Petitioner

Vs.

1.Paramasivan
2.Pappu
3.Lakshmi

4.G.Palani Murugan,
Sub-Inspector of Police,
City Police,
Tirunelveli,
Presently at Palayamkottai Police Station,
Tirunelveli District.

5.The Public Prosecutor,
Tirunelveli,
Tirunelveli District.

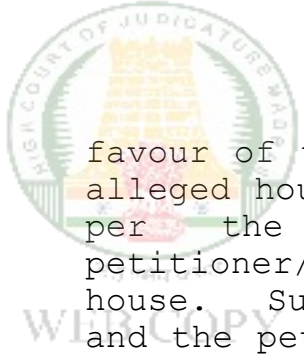
... Respondents

PRAYER: Criminal Original Petition is filed under Section 482 of the Code of Criminal Procedure, to call for the records pertaining to the orders passed by the learned Chief Judicial Magistrate, Tirunelveli, in Cr.M.P.No.1900 of 2011, dated 19.11.2011, which was confirmed by the learned IV Additional Sessions Judge, Tirunelveli, in Crl.R.C.No.14 of 2012, dated 21.06.2012 and set aside the same.

For Petitioner	:	Ms.D.Geetha
For R1 to R4	:	No Appearance
For R5	:	Mr.A.Robinson
		Government Advocate(Criminal side)

ORDER

The petitioner herein is the complainant in Cr.M.P.No.1900 of 2012, on the file of the Chief Judicial Magistrate, Tirunelveli. In the said Court, in the month of July 2011, she filed a private complaint under Sections 190(1)(a) and 200 Cr.P.C., in which, she made an allegation as on 26.02.1997 one Thirumalai received Rs.10,000/- by way of loan, for which, he executed equitable mortgage of his house. Thereafter, the said Thirumalai had not paid the interest as agreed and thereby, he handed over the house in



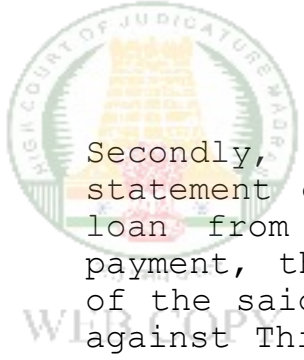
favour of the petitioner/complainant. From 26.02.1997 onwards, the alleged house is in possession of the petitioner/complainant and as per the request made by the said Thirumalai, the petitioner/complainant spent Rs.70,000/- for repairing the said house. Subsequently, a dispute arose between the said Thirumalai and the petitioner and thereby, the complaint was lodged before the Melapalayam Police Station. In the same course, on 10.10.2005, an Advocate notice was also received, for which, the petitioner/complainant herein sent a reply on 02.11.2005. Subsequent to the sending of reply notice, the petitioner filed a Original Suit in O.S.No.348 of 2007 before the District Munsif Court, Tirunelveli.

2.Further, the said Thirumalai threatened the petitioner in 2007 and lodged a complaint before the fourth respondent herein. The fourth respondent, who is the Sub-Inspector of Police threatened the petitioner and her husband to vacate the house before 20.12.2007, for which, the petitioner sent an Advocate notice mentioning a dispute between the said Thirumalai and the petitioner is civil in nature. Finally, on 29.12.2007 at 11 a.m., the respondents 1 to 3 unlawfully broke open the house, which was now in possession of the petitioner and made criminal intimidation after throwing the household articles and thereby, caused loss to the petitioner to the tune of Rs.1,00,000/-, for which, the petitioner lodged a complaint before the fourth respondent, but, he had not approached the issue properly. So, the petitioner filed an application under the Right to Information Act before the fourth respondent, for which, he replied that the dispute in this case, was amicably settled and therefor, the petitioner herein made a statement in front of the police officers.

3.After receiving the said complaint, the learned Chief Judicial Magistrate, Tirunelveli, recorded the sworn statement of the petitioner and after examining three witnesses, dismissed the petition as the complaint given by the petitioner is not having any *prima facie* case. Aggrieved over the order passed by the learned Chief Judicial Magistrate, Tirunelveli, dated 19.11.2011, in Cr.M.P.No.1900 of 2011, the petitioner filed a Criminal Revision Case in Crl.R.C.No.14 of 2012 before the IV Additional Sessions Court, Tirunelveli.

4.The learned IV Additional Sessions Judge, Tirunelveli, in her order dated 21.06.2012, confirmed the order passed by the learned Chief Judicial Magistrate, Tirunelveli, and dismissed the Criminal Revision Case. Then only, the petitioner herein approached this Court by way of this Criminal Original Petition.

5.First of all, on going through the entire facts and circumstances, it is to be noted that the entire occurrence as per the sworn statement given by the petitioner is completed in 2007. But, he lodged a complaint only in 2011. The reason for the delay in lodging the complaint is not at all explained in this petition.



Secondly, the evidence given by the witnesses and also sworn statement of the petitioner clearly disclosed that she is availed loan from one Thirumalai. Thereafter, in consequence of non-payment, the entire occurrence was happened due to the instigation of the said Thirumalai. But, in the complaint, after gave evidence against Thirumalai, the petitioner herein has not included the said Thirumalai as an accused. The reason for non-inclusion of the said Thirumalai as an accused is also not properly explained by the petitioner.

6. In the above circumstances, the reply sent by the fourth respondent, who is the Sub-Inspector of Police clearly revealed the dispute between the said Thirumalai and the petitioner was ended in compromise only after recording the statement before the police officers. Refuting the same, the petitioner made an allegation against the fourth respondent as he received a bribe. But, in order to show the said occurrence, no witnesses were examined to tell the date and time on which the bribe was given to the fourth respondent. So, the non-disclosure of above particulars also leads a doubt on the case of the petitioner. On a conjoint reading of the particulars mentioned in the reply given to the petitioner under the Right to Information Act and the non-disclosure of date and time with regard to payment or bribe to the fourth respondent clearly shows that the petitioner filed the petition only for some other reasons. Accordingly, I do not find any merit to set aside the order dated 21.11.2012, passed in CrI.R.C.No.14 of 2012 by the learned IV Additional Sessions Judge, Tirunelveli. Hence, this Criminal Original Petition is dismissed.

Sd/-

Assistant Registrar (CS-III)

/True Copy/

Sub Assistant Registrar

To

1. The IV Additional Sessions Judge,
Tirunelveli.
2. The Chief Judicial Magistrate,
Tirunelveli.
3. The Public Prosecutor,
Tirunelveli,
Tirunelveli District.
4. The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

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12/02/2018 : 3P/5C

order in
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