

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 11.04.2019

CORAM

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

Cr1.R.C.No.659 of 2012

V.R.K.K.Gopalakrishnan

... Petitioner

Vs.

1.P.Ramachandran

2.Prema

... Respondents

Prayer: Criminal Revision case filed under Section 397 r/w 401 of Cr.P.C. praying to set aside the order dated 05.06.2012 made in C.M.P.No.5931 of 2012 on the file of the Judicial Magistrate No.I, Erode.

For Petitioner : Mr.M.Guruprasad
For Respondent : Mr.I.C.Vasudevan

O R D E R

The Criminal Revision Case is directed against the order of dismissal of the private complaint by the Trial Court under Section 203 Cr.P.C., holding that there is no prima facie case made out to take cognizance of the complaint.

2. The allegations of the revision petitioner is that he had work contract with the respondent regarding construction of a house for the respondent. While he has almost completed the construction for worth about Rs.27,50,000/-, the respondent has paid only Rs.23,25,000/- and there was due of Rs.4,25,000/-. However, without settling the due, the respondent has occupied the house. In spite of demand of balance amount, the respondent failed to pay the money and also threatened him that henceforth if he ask any money, they will eliminate the defacto complainant and his father. With this fact and also alleging that when he and his father were going alone towards Erode to Tindal, the respondent and his henchmen tried to murder them. A complaint was given to the Taluk Police on 28.04.2012 by the revision petitioner. It is contended that though CSR was issued after receiving the complaint, the police has failed to investigate due to high influence of the respondent. Hence, a private complaint filed before the learned Magistrate for offence under

Sections 341, 323, 405, 406, 420 and 506((2) IPC.

3. In the complaint, the revision petitioner has stated that on 26.01.2011, he and the respondent entered into construction agreement. On 28.04.2012 at about 9.30 a.m., when he and his father were going in a vehicle bearing No. TN 33 AC 2020 (the complainant does not disclose what sort of motor vehicle it is) the accused intercepted him and attacked and also shown wooden logs threatened that if they ask balance money, they will dispose them. This was witnessed by Sangameshwaran and Chelladurai, who have followed them.

4. To substantiate the said fact before the learned Magistrate the complaint has examined the defacto complainant and three witnesses. From the sworn statements, the learned Magistrate has found that the content of the written complaint given by Gopalakrishnan to the Taluk police on 28.04.2012 is entirely different from the facts which is now been projected in the private complaint. It held that due to the dispute regarding the payment of money, the private complaint has been alleged with fabricated and false incident.

5. After hearing the learned counsel for the revision petitioner and on perusal of the records, this Court hold that the learned Magistrate is right in dismissing the complaint for the reasons recorded by him. Initially the revision petitioner has given a written complaint to the Taluk police on 28.04.2012. It does not contain any details and in fact he is not even mentioned the person who tried to kill. A vague complaint was given alleging Ramachandran family members near Tindal medu attempted to murder them. The police duly received it and registered CSR. While so, the private complaint has been given, wherein he has mentioned that on 28.04.2012 at about 9.30 a.m., he and his father while proceeding towards Tindal from Erode in their vehicle bearing No. TN 33 AC 2020, the accused and his wife intercepted them and wrongfully restrained near Tindamedu old age home. The place of occurrence, time and date though mentioned in his complaint, the complainant could not mentioned the make of the vehicle in which he and his father was travelling and the purpose of his relatives Sangamithran and Chelladurai following them. When the private complaint was lodged alleging breach of trust and cheating, there must be some material which the complainant should have relied.

6. The list of documents mentioned in the private complaint does not include the alleged civil contract agreement dated 26.01.2011 or the statement of accounts which could indicate a sum of Rs.4,25,000/- due. There is no ingredient to attract 406 and 420 IPC found in the complaint. Similarly, for attracting Section 323 IPC, the deposition of the defacto

complainant and the witnesses does not make out any prima facie case. While so, the Trial Court has rightly appreciated the statement and dismissed the complaint without proceeding further. Hence, this Court finds no error or illegality in the finding of the Trial Court.

7. In the result, the Criminal Revision Case is dismissed.

Sd/-

Assistant Registrar (AD-IV)

//True Copy//

Sub Assistant Registrar

rpl

To

1.The Judicial Magistrate No.I, Erode.

2.The Section Officer,
Criminal Section, High Court,
Madras

+1cc to Mr.M.Guruprasad, Advocate, S.R.No. 36141

MP (CO)
GN (29/05/2019)

Crl.R.C.No.659 of 2012

सत्यमेव जयते

WEB COPY