

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.02.2019

CORAM

THE HONOURABLE Mr. JUSTICE P.VELMURUGAN

Crl.Rc.No.1459 of 2018

M.Chakkarapani

... Petitioner

Vs

State through,
The Inspector of Police,
S-14, Peerkankaranai Police Station,
Chennai - 600 063.

...Respondent

Prayer: The Criminal Revision Case filed under Section 397 and 401 of Cr.P.C, to call for the records in Crl.M.P.No.6210 of 2018 dated 24.09.2018 and set aside the same and allow the revision directing the respondent to register the petitioner's complaint dated 03.09.2018.

For Petitioner : Mr.R.Ganesh Kumar
For Respondent : Mr.R.Ravichandran
Government Advocate (Crl. Side)

O R D E R

This Revision has been filed by the petitioner to call for the records and to set aside the order made in Cr.M.P.No.6210 of 2018 passed by the learned Judicial Magistrate II, Tambaram, dated 24.09.2018.

2. The petitioner is the complainant and he has filed a complaint before the respondent police against one Senthil Kumar. After receiving the complaint, the respondent police has given the C.S.R.No.605 of 2018 dated 20.07.2018 and investigated the matter. But there is no further progress in the matter. Thereafter, the petitioner has filed a petition before the learned Judicial Magistrate, Tambaram to issue suitable direction to the respondent police to investigate into the matter and register a case. The learned Magistrate after hearing the matter, dismissed the petition on the ground that the case is civil in nature. As against the said order of the learned Magistrate, the petitioner has filed the present revision before this Court.

3. The learned counsel for the petitioner would submit that one Senthil Kumar, who is the relative of the complainant, had trespassed into the property and caused damages in the property and also when the complainant

questioned him to vacate the house, he threatened him with filthy language and showing vegetable cutter. Hence, the petitioner has filed a complaint which was not considered by the respondent police, hence the learned counsel prays this Court to direct the respondent police to investigate into the matter and register the case.

4. The learned Government Advocate (Criminal Side) would submit that earlier the petitioner has withdrawn his complaint. The learned Magistrate has not stated anything about withdrawal of the complaint and also the enquiry thereof. The Magistrate has only stated that the case is civil in nature, therefore, dismissed the petition.

4. Heard the rival submission made by the learned counsel for the petitioner as well as the learned Government Advocate and perused materials available on record.

5. On reading of the complaint and the order passed by the Magistrate, it is seen that though the petitioner has not stated what is the worth of the damages caused by the respondent and what is the nature of the damages. The Magistrate has also failed to discuss anything about the damages suffered by the petitioner and simply dismissed the complaint on the ground that the case is civil in nature. The order passed by the learned Magistrate is not a speaking order. Hence, the order passed by the learned Magistrate is liable to be set-aside and accordingly, the order made in Cr.M.P.No.6210 of 2018 passed by the learned Judicial Magistrate II, Tambaram, dated 24.09.2018 is hereby set-aside.

6. In the result, the Criminal Revision is allowed by setting aside the order made in Cr.M.P.No.6210 of 2018 passed by the learned Judicial Magistrate II, Tambaram, dated 24.09.2018. The matter is remitted back to the trial Court for fresh consideration and to pass orders on merits and in accordance with law.

Sd/-

Assistant Registrar(CS)

//True Copy//

Sub Assistant Registrar

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1. The Judicial Magistrate II, Tambaram

2. The Inspector of Police,

S-14, Peerkankaranai Police Station, Chennai - 600 063.

3. The Public Prosecutor, High Court, Madras.

+1cc to Mr.R.Ganesh Kumar , Advocate SR.No. 14712

CrI.Rc.No.1459 of 2018

A.SK(03/04/2019)