



IN THE HIGH COURT OF JUDICATURE AT MADRAS

ORDERS RESERVED ON
04.08.2021

ORDERS PRONOUNCED ON
10.08.2021

WEB COPY

CORAM

THE HONOURABLE MR. JUSTICE RMT.TEEKAA RAMAN

Crl.R.C.No.1068 of 2018

K.Kalesha

.. Petitioner/Complainant

Vs.

1. Ashokan

2. Sivagi

.. Respondents/Accused

PRAYER : Petition filed under Section 397 read with 401 of the Criminal Procedure Code, against the dismissal order passed by the learned Principal District Munsif-cum-Judicial Magistrate, Vandavasi, in Crl.M.P.No.479 of 2017, dated 19.04.2018.

For Petitioner : Mr.T.V.G.Kartheeban

For Respondents : Mr.R.Sasikumar

ORDER

The matter is heard through "Video Conference".

The de facto complainant has preferred this criminal revision case against the dismissal order passed by the learned Principal District Munsif-cum-Judicial Magistrate, Vandavasi, in Crl.M.P.No.479 of 2017, dated 19.04.2018.

2. Previously, the revision petitioner herein has filed a private complaint before the Vandavasi South police station in Crime No.97 of 2012 for the alleged offence under Section 379 IPC.

3. The sum and substance of the complaint is as follows:-

[i] On 04.02.2012 at about 9.30 a.m., based upon the orders passed by this Court in Crl.O.P.No.1325 of 2012, a case has been registered wherein, it is alleged by the present revision



petitioner that the Car having Registration No.TN-25-U-9393 was originally purchased by her from Seenivasa Bankers of Gudiyatham; that the revision petitioner has given an affidavit of undertaking before the said Seenivasa Bankers to settle the amount within 11 days; that the said undertaking was registered on 10.08.2011; that on 19.08.2011, the revision petitioner has raised financial loan from Mahindra and Mahindra and availed loan upto Rs.1,90,000/- and that while she parked the car, on 10.08.2011, the same was found to be stolen.

[ii] After investigation, on 29.10.2012, the car was found to be parked in the open market of Gudiyatham and the Investigating Officer has seized the same. After investigation, the Investigating Officer has found that in order to evade the financial liability caused by the complainant to the said Seenivasa Bankers, she has embellished the case to her advantage and filed the complaint and hence, the case has been closed as a "mistake of fact" and final report was filed on 08.07.2013. Referred Charge Sheet appears to have been filed before the Court and the same is pending. The private complaint was assigned as Crl.M.P.No.479 of 2017.

[iii] Taking into consideration both the matters together, the learned Principal District Munsif-cum-Judicial Magistrate, Vandavasi, has passed an order that since the stolen vehicle was found out and recovered from Gudiyattam bus stand and the custody was also handed over to the complainant and based upon the memorandum of understanding given by the complainant that she has to settle the money due upon the hire purchase taken by the said previous owner Sadiq Basha, dismissed the private complaint observing that it is exaggerating civil dispute between the parties. The unclaimed parked vehicle has been recovered from Gudiyattam bus stand. The stolen vehicle was found out in the open market at Gudiyattam. Accordingly, as a "mistake of fact" the complaint has been closed. So is the Referred Charge Sheet. The learned Judicial Magistrate has also observed that the previous owner of the vehicle has to pay Rs.1,60,000/- and on 10.08.2011, a sum of Rs.35,000/- alone was paid and for the balance amount, 11 days time was taken under the memorandum of understanding dated 10.08.2011. Thereafter, she has availed money loan from Mahindra and Mahindra car finance to the tune of Rs.1,90,000/-.

[iv] Suppressing these two facts, the private complaint has been filed and hence, the learned Magistrate has rightly observed that since the private complainant has not filed the transfer form obtained from the Seenivasa Bankers and the receipt issued by the said Bankers towards total discharge of the amount, the learned Judicial Magistrate has entertained a doubt as to the truth and veracity of the private complaint for



non marking of the said documents. The learned Judicial Magistrate has also held that the private complainant is trying to make criminal cover to the civil dispute by filing a private complaint and also trying to exaggerate the civil dispute to threaten the Seenivasa Bankers and the financial institutions, who had lend money for the purchase of the vehicle as a second time. The reasoning assigned by the learned Principal District Munsif-cum-Judicial Magistrate appears to be correct and it does not warrant any interference by this Court and this case is liable to be dismissed.

4. In the result, this Criminal Revision Case is dismissed.

Sd/-
Assistant Registrar (CS-VI)

// True Copy//

Sub Assistant Registrar

Jr1

To:

The Principal District Munsif
-cum-Judicial Magistrate,
Vandavasi.

Copy to:

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

+1cc to Mr.Sasikumar, Advocate, S.R.No.39356

Order in
Cr1.R.C.No.1068 of 2018

MG (CO)
SU (31/08/2021)