

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.03.2021

CORAM

THE HONOURABLE MR. JUSTICE P.VELMURUGAN

Crl.R.C.No.136 of 2021

M.R.Bharath Kumar

... Petitioner

Versus

1.The Commissioner of Police,
Greater Chennai Corporation,
No.132, Commissioner Officer Building,
EVK Sampath Road, Vepery,
Periyamet, Chennai-600007.

2.The Inspector of Police,
V-5 Police Station,
No.3-4, School Road,
D-Sector, Anna Nagar West Extension,
Chennai-400 101.

... Respondents

PRAYER: Criminal Revision petition is filed under Section 397 & 401 Cr.P.C seeking to set aside the order in Crl.M.P.No.2485 of 2021 dated 03.02.2021 on the file of the XIII Metropolitan Magistrate Court, Egmore.

For Petitioner : Mr.V.Raghavachari

For R1 : Mr.K.Madhan
Government Advocate (Crl.Side)

सत्यमेव जयते
O R D E R

This Criminal Revision Case has been filed seeking to set aside the order in Crl.M.P.No.2485 of 2021 dated 03.02.2021 on the file of the XIII Metropolitan Magistrate Court, Egmore.

2. The petitioner gave a complaint before the respondent police. The respondent police after enquiry. gave CSR in C.S.R.No.345/2020. After enquiry, they closed the complaint stating that there was no proof to show that the accused was intimidated. Therefore, they closed it as a civil transaction

and it is civil in nature. Therefore, the petitioner approached the learned XIII Metropolitan Magistrate and filed the petition under section 156(3) Cr.P.C seeking for direction to the Inspector of Police, V-5 Police Station to register the FIR on the complaint dated 22.06.2020 and the learned Magistrate dismissed the said complaint. Challenging the said order, the petitioner filed the present revision before this Court.

3. Mr.V.Raghavachari, learned counsel for the petitioner would submit that Mr.Jnana Ranjan Pradhan and Sridhar, with intention to cheat the mother of the petitioner borrowed money and also not repaid the money. After demanding for long time, the accused persons gave a cheque without money, with intention to cheat the mother of the petitioner and even that cheque was dishonoured as "in-sufficient funds". Therefore, the accused who borrowed the money, not paid the said amount and even not paid the interest. Whereas, Mr.Jnana Ranjan Pradhan and Sridhar not repaid the money but prolonged the matter and subsequently whenever he demanded the money, they intimidated through henchmen. Therefore, the contention of the complainant is that the amount has been cheated and the respondent police without conducting a fair investigation, they simply closed the complaint given by the petitioner, even they did not register the case. Therefore, the petitioner approached the learned Magistrate seeking to invoke 156(3) Cr.P.C. However, the learned Magistrate failed to consider the matter and simply endorsed the view of the police and closed the same and dismissed as civil transaction between the mother of the petitioner and the said Mr.Jnana Ranjan Pradhan and Sridhar. The accused is an Auditor who cheated their client certainly with an intent to cheat. But neither the police nor the State understood the scope of section 420 IPC. Therefore, the impugned order warrants interference of this Court.

4. Mr.K.Madhan, learned Government Advocate(Crl.Side) would submit that the transaction involved is loan transaction. The borrower did not repay the amount to the mother of the petitioner and protracted the matter and defaulted to pay the money. After the enquiry, it reveals that there is no intimidation. Even in the statement given by the mother of the petitioner, it is stated that the accused has not intimidated but some other persons intimidated. Eventhough the petitioner is the complainant remained silent and has not responded. Therefore, even according to the petitioner, there is no intimidation by the accused. Therefore, the police after enquiry, has come to the conclusion that it is civil in nature and therefore, they closed the complaint. The Magistrate also rightly appreciated the matter and closed it as civil dispute

and therefore, this revision is liable to be dismissed.

5. Heard and perused the records.

6. When the matter came up before this Court on 09.03.2021, Mr.V.Raghavachari, would submit that he has a CD which shows that there is intimidation. The learned counsel produced the CD and played it. In that there is no such conversation. Whenever the petitioner called the borrower/accused, he was only postponing the date of repaying the money. Therefore, nothing is found to show that there was a criminal intimidation. Further, the transaction is purely a civil transaction. Therefore, under these circumstances, the Magistrate found that there is no material to show that there was intention to cheat or criminal intimidation.

7. Though, Mr. V.Raghavachari learned counsel would submit that, the accused has taken the money and from the inception, to cheat the mother of the petitioner only, with intention to cheat, he also gave the cheque. But the intention of the parties cannot be gathered unless there is a material to show the same. The intention of the parties cannot be interpreted unless materials show that the borrower had intention to cheat and also subsequently caused the criminal intimidation. There are no materials shown and even from the statement given by the mother of the petitioner, no such intention is made out. Therefore, under these circumstances this Court does not find any perversity in the order passed by the Magistrate. There is no merit in the revision. However, if the petitioner has got any materials to show that there is criminal intimidation, it is open to them to file a fresh complaint before the respondent police. In such an event, if there are materials for criminal intimidation, the respondent police is directed to register the case and investigate the matter.

8. With the above direction, this criminal revision case is disposed of.

Sd/-
Assistant Registrar

//True copy//

Sub Assistant Registrar

mpa

To

1.The Commissioner of Police,
Greater Chennai Corporation,
No.132, Commissioner Officer Building,
EVK Sampath Road, Vepery,
Periyamet, Chennai-600007.

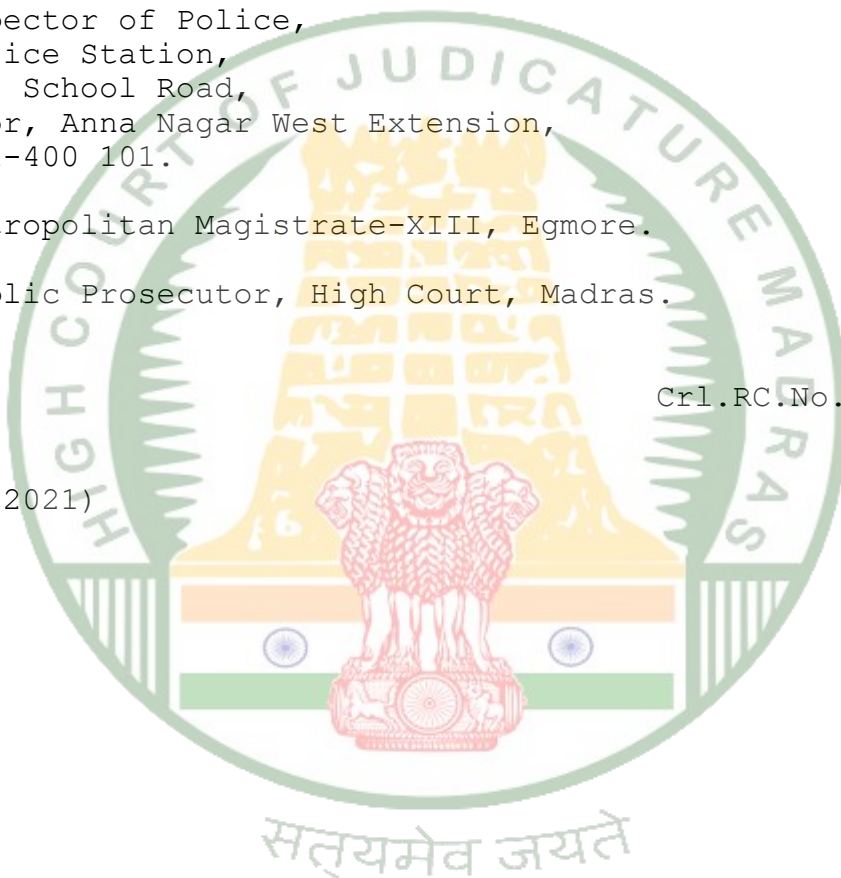
2.The Inspector of Police,
V-5 Police Station,
No.3-4, School Road,
D-Sector, Anna Nagar West Extension,
Chennai-400 101.

3. The Metropolitan Magistrate-XIII, Egmore.

4. The Public Prosecutor, High Court, Madras.

CrI.RC.No.136 of 2021

GMI (CO)
GMY (08/04/2021)



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