

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.06.2021

CORAM :

THE HONOURABLE MR. JUSTICE N. SATHISH KUMAR

Crl. R.C. No.255 of 2021

Vijaya

... Revision Petitioner

Vs.

1. State represented by
The Inspector of Police,
Kumarapalayam Police Station,
Namakkal District.
 2. Saravanamuthu,
Advocate,
78/6, BVR Building,
Agraharam Village,
Kasba Town, Salem Main Road,
Kumarapalayam Taluk,
Namakkal District.
- ... Respondents

Criminal Revision Case filed under Section 397(1) r/w. 407 Cr.P.C., against the order, dated 01.03.2021, passed in Crl.M.P.No.444 of 2021 on the file of the Judicial Magistrate Court, Kumarapalayam.

For Petitioner : M/s.T.K.S.Bharathy Shri

For R1 : Mr.A.Damodaran
Counsel for Government of Tamil Nadu
(Crl. Side)

सत्यमेव जयते
O R D E R

This Criminal Revision Case has been filed against the order, dated 01.03.2021, passed by the learned Judicial Magistrate, Kumarapalayam, in Crl.M.P.No.444 of 2021, dismissing the petition under Section 156(3) Cr.P.C. filed by the petitioner.

2.The case of the petitioner in brief is as follows :

The petitioner is the owner of the property in S.No.29/3A1. The petitioner entered into an unregistered sale agreement on 24.06.2019 with the 2nd respondent for a total sale consideration of Rs.69,12,000/-. The second party paid an advance amount of

Rs.17,00,000/- to the petitioner and agreed to complete the sale by paying the balance amount of Rs.52,12,000/- to the petitioner within 6 months. It is averred in the agreement that, if the second party fails to pay the balance amount within 6 months, he will lose the advance amount of Rs.17,00,000/- paid by him and the sale agreement will stand canceled. The second party failed to pay the balance amount within the stipulated time. However, after a lapse of six months, the 2nd respondent started demanding repayment of the advance amount and when denied by the petitioner, he threatened her with the help of goondas. The 2nd respondent approached the police for return of advance amount, however, on enquiry, the petitioner stated that it is purely a civil dispute, and the parties exchanged legal notices in this regard. Thereafter, the 2nd respondent illegally trespassed into the petitioner's property and encroached upon the property and when questioned, he threatened the petitioner of dire consequences. Hence, the complaint.

3.The learned counsel for the petitioner submitted that the petitioner is a widow and the 2nd respondent has illegally trespassed into the petitioner's property and has committed the offences under Sections 427, 441, 442, 448, 461 and 506(ii) IPC, however, the learned Magistrate, has dismissed the petition without any basis, and prays for setting aside of the order.

4.Heard the learned counsel for Government of Tamil Nadu (Crl. Side) appearing for the 1st respondent police.

5.On a perusal of the impugned order, it is seen that the learned Magistrate, after considering the entire materials, has found that the entire case arises out of a civil dispute and has observed that the complainant herself has admitted during the police enquiry that it is a civil dispute and it appears that there was an exchange of legal notices between the parties. Now, it is alleged that the 2nd respondent has illegally trespassed into the property of the petitioner and is threatening the petitioner.

6.Be that as it may, the learned Magistrate has observed that the complainant herself has admitted that the police had conducted an enquiry earlier in this regard and therefore, there are no prima facie materials to take cognizance of the complaint for the aforesaid offences, and has granted liberty to the petitioner to file a private complaint under Section 200 Cr.P.C.

7.On a perusal of the entire order passed by the learned Magistrate, it is seen that the learned Magistrate has applied her mind and this Court finds no infirmity or illegality in the order warranting interference. Though this Court is not inclined to dwell on the merits of the case, this Court is of

the view that the petitioner can very well approach the concerned Magistrate Court and file a complaint under Section 200 Cr.P.C. and establish her right by producing necessary evidence.

8. With the above observation, this Criminal Revision Case is dismissed.

-s/d-

Assistant Registrar

True Copy

Sub-Assistant Registrar

mkn/ssr

Copy to :

1. The Judicial Magistrate,
Kumarapalayam.
2. The Inspector of Police,
Kumarapalayam Police Station,
Namakkal District.
3. The Public Prosecutor,
High Court, Madras

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EV(CO)
SP(13/07/2021)

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