



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.12.2021

CORAM

THE HONOURABLE MR.JUSTICE A.D.JAGADISH CHANDIRA

CRL.R.C.NO.908 OF 2021

S.Vijayabhaskar

... Petitioner

Vs.

1. State rep. by
The Inspector of Police,
B2, Vishnu Kanchi Police Station,
Kancheepuram.

2. R.Venkatesan

.. Respondents

PRAYER:

The Criminal Revision Petition is filed under Section 397 & 401 of the Code of Criminal Procedure, to call for records relating to C.M.P.No.989 of 2021 on the file of the Judicial Magistrate -I, Kancheepuram and set aside the order dated 07.04.2021 and direct the 1st respondent to register the case on the basis of the complaint lodged by the petitioner on 18.01.2021.

For Petitioner : Mr.K.M.Balaji

For Respondent : Mr.S.Sugendran

Government Advocate [Crl. Side]

O R D E R

This Criminal Revision has been filed against the dismissal of the petitioner filed under Section 156(3) of Cr.P.C seeking for a direction to the Station House Officer, Vishnu Kanchi Police Station to file F.I.R and investigate the complaint dated 18.01.2021 given by the petitioner.

2. The case of the petitioner is that he had borrowed a sum of Rs.3,50,000/- from the proposed accused on two occasions in two instalments of Rs.1,50,000/- and Rs. 2,00,000/-. For the above borrowals the petitioner had issued two blank promissory

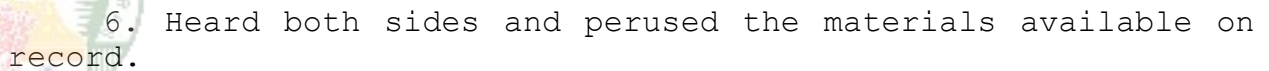


notes and 5 blank cheques as security. It is the further case of the petitioner that the petitioner had settled the debt, but the proposed accused had not returned the documents given to him towards security. When the petitioner on 17.01.2021 had sought for return of security documents, the proposed accused stated that he would not return the security documents until the loans availed by the brother and a friend of the petitioner are settled and he had also criminally intimidated the petitioner. The petitioner had made a complaint to the B2, Vishnu Kanchi Police Station, Kancheepuram on 18.01.2021. However, the complaint was not entertained and thereby he had made a written complaint to the Superintendent of Police on 27.01.2021. Even thereafter, since no action was taken by the Police, the petitioner had preferred the petition under Section 156(3) of Cr.P.C.

3. According to the petitioner, the proposed accused had misused one of the cheque and had presented it for collection and issued a notice for dishonour of cheque and thereby, offence under criminal breach of trust and criminal intimidation are made out. The trial court, after carefully perusing the complaint came to the conclusion that the dispute between the parties is primarily civil in nature and except the allegation about the criminal intimidation allegedly made by the proposed accused, the complaint did not disclose any criminal act. Further, the learned Magistrate finding that the petitioner attempted to take shield by abusing the process of law and thereby, attempted to create a defence for the case that would be filed under section 138 of the N.I. Act however, granting liberty to the petitioner to file private complaint for criminal intimidation, had dismissed the petition on 07.04.2021, against which the revision has been filed.

4. The learned counsel for the petitioner would submit that the petitioner had repaid entire loan amount and had asked for return of documents given as security to the proposed accused whereas instead of returning the security documents, he had misused the cheque and issued notice dated 17.01.2021 under Section 138 of N.I Act. When it was questioned by the petitioner, the proposed accused had threatened and intimidated him.

5. Mr.S.Sugendran, learned Government Advocate (crl.side) appearing for the respondent, would submit that the complaint given by the petitioner to the Superintendent of police was referred for the enquiry and during the enquiry, it was found that the complaint has been given as preemption, as a shield against the proposed complaint under Section 138 of the N.I.Act.



7. This Court is of the opinion that the complaint has been filed in a preemptive manner to make out a defence. The learned Magistrate finding that the disputes are civil in nature had dismissed the petition. However, as far as the alleged criminal intimidation made by the proposed accused, the Court had given liberty to the petitioner to file a private complaint for threat which can be dealt by the Court without any hindrance to the civil disputes between the parties.

8. In view of the above, this Criminal Revision Petition stands dismissed. However, liberty is granted to the petitioner to file a private complaint in respect of intimidation alleged to have been made by the proposed accused.

Sd/-
Assistant Registrar (CS VII)

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Sub Assistant Registrar

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To

1. The Judicial Magistrate -I, Kancheepuram
2. The Inspector of Police,
B2, Vishnu Kanchi Police Station,
Kancheepuram.
3. The Public Prosecutor,
High Court, Madras.

+1cc to Mr.K.M.Balaji, Advocate, S.R.No.64707

Cr1.R.C.No.908 of 2021

PMK (CO)
PM/15/12/2021