

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.01.2021

CORAM:

THE HON'BLE Mr. JUSTICE P.VELMURUGAN

Criminal Revision Case No.977 of 2020

R.Appusamy

... Petitioner

Vs.

1.State Rep.by

The Inspector of Police,
Elachipalayam Police Station,
Namakkal District.

2.Kuppusamy

3.Viveganandhan

... Respondents

(Respondents 2 and 3 are suo motu impleaded as

per order of this Court dated 08.12.2020 in
Crl.R.C.No.977 of 2020)

Criminal Revision Case filed under Section 397 r/w 401 of
Cr.P.C to call for the records in order dated 6.10.2020 made in
C.M.P.No.1053 of 2020 on the file of the Judicial Magistrate,
Tiruchengode, Namakkal District and set aside the same.

For Petitioner : Mr.P.Saravana Sowmiyan

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

Mr.A.R.M.Arunachalam
for R2 and R3

O R D E R

This Criminal Revision Case has been filed against the
order dated 06.10.2020 made in C.M.P.No.1053 of 2020 on the file
of the Judicial Magistrate Court, Tiruchengode, Namakkal
District.

2.The petitioner filed a complaint before the respondent
police, which was kept in abeyance without any action and hence,
the petitioner filed a petition under Section 156(3) Cr.P.C
seeking to register the complaint and investigate the matter.
The learned Magistrate, after providing sufficient opportunity

of personal hearing to both the parties and come to conclusion that the matter essentially relates to a civil dispute and dismissed the petition. Challenging the said order, the petitioner is before this Court.

3. The learned counsel for the petitioner would submit that the private respondents along with 20 members trespassed into the land of the petitioner with J.C.B and tried to lay a pathway. Hence, the petitioner made a complaint against the respondents 2 and 3 before the 1st respondent/police and the same was kept in abeyance without any action. Whereas, the third respondent filed a complaint against the petitioner and others and the same registered as Crime No.641 of 2020 for the offence under Section 147, 447, 431 and 506(1) IPC by the respondent police on 14.08.2020. However, the first respondent police has not register the complaint against the private respondents with ulterior motive and malafide intention and hence, the petitioner approached the learned Magistrate. However, the learned Magistrate, without considering the photographs and CD along with the complaints filed by the petitioner, dismissed the petition. Hence, the order passed by the learned Magistrate is liable to be set aside.

4.The learned counsel for the respondents 2 and 3 would submit that both the parties filed a civil suit in O.S.No.518 of 1996 before the learned District Munsif, Tiruchengode and the same was decreed in favour of the respondents 2 and 3. Further, the partition deed and other documents would clearly show the existence of the pathway. If at all, there is no pathway, it is for the petitioner to work out his remedy before the Civil Court. Hence, the 1st respondent/police as well as the learned Magistrate refused to register the complaint.

5.Heard the learned counsel on either side and perused the materials available on record.

6.Admittedly, the case was registered against the petitioner in Crime No. 641 of 2020 for the offence under Section 147, 447, 431 and 506(1) IPC and the same is pending. Whereas, the petitioner also made a complaint against the respondents 2 and 3 and the same was kept in abeyance without any action by the first respondent police. Hence, the petitioner filed a petition under Section 156(3) Cr.P.C., the learned Magistrate after due enquiry dismissed the petition on the ground that the matter essentially relates to a civil dispute and also a criminal case is pending against the petitioner.

7.At this juncture, the learned Government Advocate (Crl.Side) for the first respondent would submit that the respondent police registered a case against the petitioner in Crime No.641 of 2020, investigation is almost completed and they are likely to file a charge sheet before the learned Magistrate.

8.In the light of the above facts and also on perusal of the records and other materials, it would reveal that the claim of the petitioner is purely civil in nature, hence, this Court does not find any perversity or illegality in the order passed by the learned Magistrate. Accordingly, the Criminal Revision Case is dismissed. However, liberty is granted to the petitioner to work out his remedy before the competent Civil Court in the manner known to law.

Sd/-

Assistant Registrar

/True Copy/

Sub Assistant Registrar

To

1.The Judicial Magistrate,
Tiruchengode, Namakkal District

2.The Inspector of Police,
Elachipalayam Police Station,
Namakkal District.

3.The Public Prosecutor,
High Court of Madras, Chennai.

+1cc to Mr.P.Saravana Sowmiyan, Advocate SR.NO.1375

+1cc to Mr.AR.M.Arunchalam, Advocate SR.NO.1381

AKM/16.02.21/3P-6C/

Cr1.R.C.No.977 of 2020

08.01.2021

सत्यमेव जयते

WEB COPY