



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Date of Reserving Order
28.07.2021

Date of Pronouncing Order
26.08.2021

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THE HONOURABLE MR. JUSTICE RMT.TEEKAA RAMAN

Crl.R.C.No.704 of 2017

V. Rajakumar

.. Petitioner

Vs.

1.The Inspector of Police (Crime),
J-9, Thoraipakkam Police Station, Chennai - 96.
2.R. Narayanan
3.K. Jayanthi
4.Athiappan

.. Respondents

1st respondent name is removed from the cause title
as per the order of this Court dated 02.06.2017
in Crl.R.C.No.704/2017.

PRAYER : Petition filed under Section 397 read with 401 of the Criminal Procedure Code, to set aside the order passed by the learned Judicial Magistrate, Alandur in C.M.P.No.6018 of 2016 dated 19.01.2017 and direct the Inspector of Police (Crime), J-9, Thoraipakkam Police Station, Chennai-96, for investigation and for filing of final report.

For Petitioner : Mr. D. Ashok Kumar
for Mr. K. Rahavan

For Respondents : Mr. V. Prakash, Senior Advocate
for Mr. N. Naganathan, for R2

Mr. Senthil Kumar
for Mr.S.Senthamizhan, for R3 & R4

O R D E R

The matter is heard through "Video Conference".

2. The private complainant is the revision petitioner herein. The petitioner herein lodged a complaint before the



Inspector of Police (Crime), J-9 Thoraipakkam Police Station, Chennai-600 096 on 28.09.2017. The Inspector of Police (Crime), declined to receive the same under the pretext that the complaint is of civil in nature. The petitioner has approached the Deputy Commissioner of Police, Adyar Range, on the same day i.e., on 28.09.2016 and preferred an appeal before him to take necessary action on his complaint under the Provisions of Indian Penal Code, 1860. The Deputy Commissioner of Police, Adyar Range, duly forwarded his complaint to the Assistant Commissioner of Police, Thoraipakkam, Chennai-600 096, who in turn directed the Inspector of Police (Crime), J-9, Thoraipakkam Police Station, Chennai-600 096 for investigation and report.

3. It is alleged that the Inspector of Police (Crime), J-9, Thoraipakkam Police Station, Chennai-600 096 neither commenced investigation nor filed any report and was keeping his complaint pending without taking any sort of action. Due to the inordinate delay on the part of the Inspector of Police (Crime), J-9, Thoraipakkam Police Station, Chennai-600 096, he appeared before the Judicial Magistrate at Alandur on 05.11.2016 and filed his complaint under Section 200 of Cr.P.C., praying to forward his complaint to the Inspector of Police (Crime), J-9, Thoraipakkam Police Station, Chennai-96 under Section 156(3) of Cr.P.C., for investigation and for necessary action against the accused.

4. The petitioner's sworn in statement was taken, the evidence of the complainant was closed on 12.01.2017 and thereafter, the arguments of the complainant's advocate had been heard at length. The learned Judicial Magistrate at Alandur, on receipt of such particulars of complaint and other relevant materials lodged in connection with the complaint, arrived the conclusion that no offences are made out and as such, the complaint is not sustainable in law and thus, dismissed the complaint under Section 203 of Cr.P.C., by order in C.M.P.No.6018 of 2016 dated 19.01.2017. Hence, this revision.

5. Heard, Mr.D.Ashok Kumar, learned counsel for the petitioner, Mr.V.Prakash, Senior Advocate for the second respondent and Mr.Senthil Kumar, learned counsel for the respondents 3 and 4.

6. The learned Senior Advocate for the second respondent made a submission in support of the order passed by the learned Judicial Magistrate, Alandur. According to the learned Senior Advocate for R2, it is a civil dispute, civil case is pending and civil case is posted for hearing for the evidence on 17.08.2021. The order passed by the learned Judicial Magistrate, does not suffer from any irregularity. Accordingly, prayed for dismissal of the revision.



7. On perusal of the order passed by the learned Judicial Magistrate, Alandur, on the receipt of the said complaint, the Magistrate has treated as private complaint and decided to record the statement of witnesses under Section 200 of Cr.P.C., and after recording the evidence, has found that as against the other two partners viz., K.Nathan and P. Mahendran, there was no allegation has been levelled against him, he is found to be a purposeful evasion.

8. Further, the learned Magistrate has held that there is no evidence or documents on the side of the complainant to show the plant and machineries have been mishandled and removed. furthermore, the learned Magistrate has observed that the second respondent-Narayanan has acted as middleman and an allegation has been made against him, as if he has received Rs.10 lakhs, without any valid proof or document to the said effect and the Magistrate has also based upon the evidence has come to the conclusion that the private complainant has not levelled any allegation against K.Nathan and P.Mahendran.

9. In order to evade the actual fact being projected has chosen to show the land owner viz., the second accused/Jayanthi and the third accused who is running the rice mill. Furthermore, Civil Suit in O.S.No.335/2015, is pending before the Jurisdictional Munsif Court and has found fault with the attitude of the petitioner and further stated that the allegations are civil in nature. Accordingly, dismissed the complaint under Section 203 of Cr.P.C.

10. After going through the order passed by the learned Magistrate, Alandur, I find that the issue involved is civil in nature. Already the case is pending before the Jurisdictional Munsif Court, even before the present petition before the Magistrate was filed. In the absence of any jurisdictional error, I find that the finding rendered by the learned Magistrate, viz., the matter is civil in nature and dismissing of the complaint does not warrant any interference.

11. Accordingly, the criminal revision case is dismissed.

Sd/-
Assistant Registrar(CS-IX)

//True Copy//

Sub Assistant Registrar

AT



To

1. The Judicial Magistrate,
Alandur.
2. The Inspector of Police,
J-9, Thoraipakkam Police Station,
Chennai - 96.

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Cr1.R.C.No.704 of 2017

RP (CO)
SU(08/10/2021)