



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 05.07.2021

CORAM

THE HONOURABLE MRS. JUSTICE T.KRISHNAVALLI

Crl.RC(MD)No.200 of 2021

WEB COPY

Neelajanagadhas

: Revision Petitioner

Vs.

1.Sivaththamuthu

Assistant Manager,
Canara Bank Office,
Alapuzha,
Kerala State.

2.Krishnakumar,

Manager,
Syndicate Bank Ltd.,
Now Canara Bank,
Neyoor Branch,
Thingal Nagar,
Kanyakumari District.

3.The Inspector of Police,

Eraniel Police Station,
Kanyakumari District.

: Respondents

Prayer: Criminal Revision filed under sections 397 and 401 of the Code of the Criminal Procedure, against the order, dated 02.12.2020 passed by the Judicial Magistrate, Eraniel, in Crl.MP No.1663 of 2020. Consequently direct the 3rd respondent to Register the case on the basis of complaint dated 16.05.2020

For Revision Petitioner : M/s.V.Karthigai Priya
for Mr.A.Balakrishnan

For R1 and R2 : Mr.N.Dilip Kumar

For 3rd Respondent : Mr.P.Kottaichamy

Standing Counsel

for State Government
(Criminal side)

O R D E R

This Criminal Revision is filed against the order, dated 02.12.2020 passed by the Judicial Magistrate, Eraniel, in Crl.MP No.1663 of 2020.



2.The petitioner has availed housing loan of Rs.2,00,000/- from the respondent Bank. Due to default in paying instalment, on 27.09.2007, the Bank issued notice under section 13(2) of SARFAESI Act to the petitioner. After receipt of the notice, the petitioner paid Rs.53,000/- on three occasions. While so, the petitioner submitted application, on 14.05.2008 seeking for one time settlement. Based on the communication of the Bank, dated 01.12.2008, the petitioner approached the Bank and requested about one time settlement. Thereafter, the respondent Bank filed a petition before the Chief Judicial Magistrate, Nagercoil, to evict the petitioner from his house and trespassed into the house and threatened with dire consequences along with rowdy elements. The petitioner made a complaint before the Eraniel Police Station about making false documents, exorbitant interest and threat on 06.05.2020 and the same was registered in CSR No.268 of 2020. Since no case was registered, again on 13.07.2020, he made another complaint to the Superintendent of Police. As there was no response, the petitioner filed a petition in Crl.MP No.1663 of 2020 under section 156(3) of Cr.P.C before the Judicial Magistrate, Eraniel. The learned Judicial Magistrate dismissed the said petition, on 02.12.2020. Hence, the petitioner is before this court.

3.The contention of the petitioner is that the complaint given by him constitutes cognizable offence and the respondents Bank falsified the account of the petitioner and insisted the petitioner to settle the amount, based on the forged documents and the complaint is not civil nature and prays that the Criminal Revision has to be allowed.

4.On the other hand, the learned counsel appearing for the respondents 1 and 2, it is argued that the petitioner obtained housing loan from their Bank and failed to repay the amount and hence, action was taken as per the procedures and in respect of the loan, cases were pending before the Civil Court and DRT and hence, it is not necessary to register the case on the basis of the complaint given by the petitioner and prays that the Criminal Revision has to be dismissed.

5.It is an admitted fact that the petitioner obtained loan for the construction of a house during the year 2001. Due to non payment of the loan amount, the Bank took action as against the petitioner. For payment of the loan amount, already civil cases are pending before the civil court. On perusal of the complaint, it is seen that it was civil in nature. As per the ruling reported in **(2009)2 SCC 363 (Raghu Raj Singh Rousha Vs. Shivam Sundaram Promoters Private Limited and another)**, if the complaint is civil in nature, the petition under section 156(3) is not maintainable. In this case also, the complaint is civil in nature.



6.For all the reasons stated above, this court finds no merit in this criminal revision and accordingly, the criminal revision is **dismissed.**

Sd/-

Assistant Registrar (Crl)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

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Note :In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

1. The Judicial Magistrate,
Eraniel.
2. The Inspector of Police,
Eraniel Police Station,
Kannyakumari District.
3. Additional Public Prosecutor,
MaduraiBench of Madras High Court,
Madurai.

+1 CC to M/s.N.DILIPKUMAR, Advocate (SR-21412[F] dated 06/07/2021)

Crl.RC(MD)No.200 of 2021

05.07.2021

PM(CO)

LR (23.07.2021) 3P 5C