



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 24.02.2021
Pronounced on : 24.03.2021

CORAM

THE HONOURABLE MR.JUSTICE K.MURALI SHANKAR

CRL.RC (MD) .No. 628 of 2017

Selveshwari

: Petitioner

Vs.

1.Ramasubramanian
2.Mahalakshmi
3.Karuppasamy
4.Ravi

5.The Inspector of Police,
Rajapalayam North Police Station,
Rajapalayam.

6.The Superintendent of Police,
Virudhunagar District.
(Rajapalayam North Police Station Circle)

: Respondents

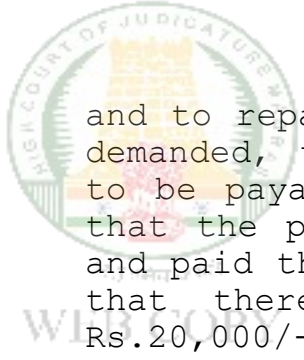
PRAYER:- Criminal Revision Case filed under Section 397 and 401 Cr.P.C., against the order of learned Judicial Magistrate, Rajapalayam in Crl.M.P.No.3223 of 2017, dated 19.04.2017 dismissing the private complaint filed by the petitioner herein for the offences punishable under Sections 463, 465, 468, 469, 474, 120(b) r/w. 34 of IPC.

For petitioner	: Mr.S. Ramasamy
For R1 & R2	: Mr.A. Sivaji
For R3 and R4	: No appearance
For R5	: Ms.S.E. Veronica Vincent
	Government Advocate (Crl. Side)

ORDER

This Criminal Revision is directed against the order passed in Crl.M.P.No. 3223 of 2017, dated 19.04.2017, on the file of the Court of the Judicial Magistrate, Rajapalayam, dismissing the petition filed under Section 156(3) Cr.P.C.,

2. The revision petitioner in her petition filed under Section 156(3) Cr.P.C., has alleged that the first respondent, who is her relative and a press reporter had promised her to get a land at lesser price and to help in making constructions, that the petitioner, believing the words of the first respondent had paid a sum of Rs.50,000/- towards payment of sale advance for purchasing the vacant site for Rs.11,56,000/-, that subsequently sale agreement was executed on 26.09.2016, that the first respondent has then demanded Rs.40,000/- to meet out the medical expenses of his child



and to repay his debts, that the petitioner had paid Rs.40,000/- as demanded, that the first respondent has again demanded Rs.40,000/- to be payable to the second respondent towards broker commission, that the petitioner had visited the house of the first respondent and paid the same to his wife as he was not available at that time, that thereafter the first respondent had demanded a sum of Rs.20,000/- for paying his son's college fees and the petitioner had advanced the said amount as a loan, that subsequently the first respondent had received a sum of Rs.30,000/- by alleging that the same was to be paid to the Sub Registrar, that after the purchase of the land he informed the petitioner that Rs.50,000/- was required to get the building approval from the Municipality and accordingly, he received Rs.20,000/- on 26.11.2016 and Rs.20,000/- on 28.11.2016, that the petitioner after enquiring with the municipality staff came to know that a sum of Rs.15,000/- was sufficient to get approval and the first respondent had not taken any steps to get the building approval, that he had cheated the petitioner along with respondents 2 to 4, that when his fraudulent acts were questioned by the petitioner, the first respondent had threatened that the petitioner has to pay a sum of Rs.2,00,000/- and in case of her refusal to pay he will drag the petitioner to Court cases that some other persons at the instigation of the first respondent, contacted the petitioner through Cellphone and threatened her, that thereafter the first respondent has created a promissory note by forging the document and filed a civil suit before the Sub Court, Srivilliputur on the basis of the forged pronote, that when the petitioner was returning after attending the Court hearing, the first respondent had threatened the petitioner and his mother directing them to pay a sum of Rs.50,000/- and to get out of the issue and that since the complaints to the respondents 5 and 6 were of no avail, the petitioner was constrained to file the above petition seeking a direction to the fifth respondent to register a First Information Report on her complaint and to proceed with the investigation.

3. The learned Judicial Magistrate Rajapalayam, after receipt of the said petition, upon perusing the records and on hearing the petitioner's side, has passed the impugned order on 19.04.2017 dismissing the petition. Aggrieved by the said order, the petitioner has come forward with the present revision.

4. Whether the order passed by the learned Judicial Magistrate in CrI.M.P.No. 3223 of 2017, dated 19.04.2017 is liable to be set aside? is the point for consideration.

5. The revision petitioner has filed the above petition under Section 156(3) Cr.P.C., against the respondents 1 to 4 seeking a direction to Register the First Information Report for the offences alleged to have been committed under Sections 463, 465, 468, 469, 474, 120(B) r/w. 34 of IPC. The learned Judicial Magistrate, by observing that the civil case is pending between the

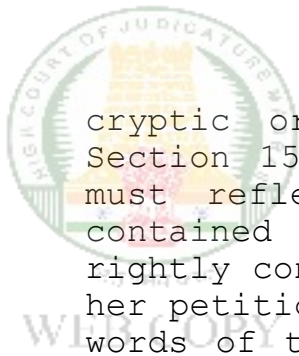


petitioner and respondents and that the petitioner has not filed any documents to show that the respondents 1 to 4 had extracted money from her fraudulently, dismissed the petition.

6. The learned counsel appearing for the revision petitioner would contend that the trial Court has failed to follow the procedure under Section 202 Cr.P.C., and also not mentioned the provision under which the complaint was dismissed, that the learned Magistrate has failed to consider that the first respondent has given sweet coated words for getting the money from the petitioner and that the respondents 3 and 4 had threatened her through mobile phone. No doubt, the learned Judicial Magistrate can very well treat the petition filed under Section 156(3) Cr.P.C., as a private complaint and if such Course is adopted, then the learned Magistrate has to examine the complainant and the other witnesses produced by the complainant and thereby he has to conduct an enquiry under Section 202 Cr.P.C., and thereafter, he can pass orders either to dismiss the same under Section 203 Cr.P.C., or to order for issuance of process under Section 204 Cr.P.C., In the case on hand, admittedly, the learned Magistrate has not chosen to treat the petition filed under Section 156(3) Cr.P.C., as a complaint under Section 200 Cr.P.C., and as such, following the procedure under Section 202 Cr.P.C., does not arise at all.

7. The learned Magistrate is not supposed to act mechanically and direct registration of First Information Report in each and every case in a routine and casual manner and that the criminal law is not expected to be set into motion on the mere asking of a party. The Magistrate is also required to apply his mind to the bare contents of the application under Section 156 (3) Cr.P.C., regarding disclosure of the cognizable offence and not to proceed to decide whether or not, there are sufficient grounds for proceeding further to satisfy himself regarding the commission of cognizable offence. It is settled law that the judicial Magistrate will not work under Section 156 (3) Cr.P.C., like Postman, but, he has to examine whether from perusal of the petition filed under Section 156(3) C.P.C., prima facie commission of offence is disclosed or not and that if the dispute is purely civil in nature, the refusal to order of registration of First Information Report is proper.

8. In the case on hand, a cursory perusal of the complaint averments would go to show that the the dispute is of civil in nature. Moreover, admittedly, the civil dispute is on the basis of the promissory note alleged to have been executed by the petitioner and the same is pending on the file of the Sub Court, Srivilliputtur. Whether the promissory note filed in the above civil suit is a created one, whether the signatures of the petitioner were forged are the aspects that can only be decided during trial, by that Court. No doubt, as rightly contended by the petitioner side, the Magistrate, after referring to the complaint averments, has passed a



cryptic order. While dismissing the application filed under Section 156(3) Cr.P.C. the order passed by the learned Magistrate must reflect that he had applied his mind to the allegations contained in the petition moved under Section 156(3) Cr.P.C., As rightly contended by the respondents side, the petitioner herself in her petition stated that she had paid amounts only on believing the words of the first respondent and that she had paid one amount of Rs.20,000/- as a debt to the first respondent.

9. As rightly observed by the learned Magistrate, the petitioner has not produced any materials to show that the respondents 1 to 4 had extracted money from her fraudulently. It is pertinent to mention that the Magistrate is expected to see that the averments raised in the petition would constitute the cognizable offences and the same is supported by the materials and that mere allegations about the commission of offence without any material in support thereof would not justify the order for investigation under Section 156(3) Cr.P.C.,.

10. On considering the entire facts and circumstances, this Court is of the clear view that the dispute allegedly between the parties appears to be civil dispute and that the petitioner has neither pleaded nor shown any material in support of his requisition. Hence, this Court decides that the Commission of cognizable offence is not made out and no prima facie case is shown and this Court does not find any infirmity in the impugned order. Consequently, this Court concludes that revision is devoid of merits and the same is liable to be dismissed.

11. In the result, this Criminal Revision Case is dismissed and the order passed by the learned Judicial Magistrate, Rajapalayam in Crl.M.P.No.3223 of 2017, dated 19.04.2017 is confirmed.

Sd/-

Assistant Registrar (CRL)

// True Copy //

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Sub Assistant Registrar(CS)

To

- 1.The Judicial Magistrate, Rajapalayam.
- 2.The Chief Judicial Magistrate, Rajapalayam.
- +1 CC to M/s.A.SIVAJI, Advocate (SR-13476[F] dated 25/03/2021)

CRL.RC (MD) .No. 628 of 2017
24.03.2021

TP (CO)

KB(08.04.2021) 4P 4C

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