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IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 31.03.2022

PRONOUNCED ON : 07.04.2022

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THE HONOURABLE MR.JUSTICE R.PONGIAPPAN

CRL.R.C.NO.412 OF 2022

Mr.S.Sridhar

... Revision Petitioner/Petitioner

Vs.

State by
Inspector of Police,
K-1, Sembium Police Station,
Chennai.

... Respondent/Respondent

Prayer: Criminal Revision Case filed under Section 397 and 401 of the Code of Criminal Procedure, to set aside the order dated 07.01.2022 passed in Crl.M.P.No.23726 of 2021 on the file of the learned V Metropolitan Magistrate, Egmore, Chennai.

For Revision Petitioners : Mr.N.Iyyakannu

For Respondent : Mr.Leonard Arul Joseph Selvam
Government Advocate (Crl.Side)

O R D E R

This Criminal Revision Case has been filed praying to set aside the order dated 07.01.2022 passed in Crl.M.P.No.23726 of 2021 on the file of the learned V Metropolitan Magistrate, Egmore, Chennai.

2. The case of the revision petitioner is that, on 20.03.2021, when at the time the petitioner after finishing his office work, in the night hours, went to Kaai Kani Super Market, situated at No.28, Bharathi Street, Perambur, Chennai, to purchase vegetables and fruits, after receiving the bill, he paid the bill amount at the cash counter and waited for receiving the balance amount. At that time, the owner of the



shop instead of giving the balance amount in Indian Currency approved by Reserve Bank of India, had given dummy three five rupees and three one rupee coins which resemble to denote five rupees and one rupee. When the same was questioned by the petitioner, the owner/Padmanaban and the staff at the said shop threatened the petitioner by using filthy language.

3. Even before the Commissioner of Police, Greater Chennai, Chennai, on 23.03.2021, during the time of enquiry made on the complaint sent by the petitioner, the owner of the shop was present and accepted that he has been doing this sort of printing and distributing dummy notes to the customer and public for long time. Even after knowing the same, the respondent police tried to escape and give lame excuse and refused to register a case. Therefore, the petitioner filed a complaint before the learned V Metropolitan Magistrate, Egmore, Chennai under Section 156(3) Cr.P.C., and the same has been dismissed, without mentioning any specific reasons. Challenging the same, the petitioner is before this Court.

4. Heard the learned counsel for the petitioner.

5. It is the submission made by the learned counsel for the petitioner that the averments found in the complaint given before the learned Metropolitan Magistrate clearly attracts a cognizable offence. But, the learned Metropolitan Magistrate, instead of sending the said complaint for registration and investigation of the case, mentioning the reason that the alleged offence stated by the petitioner attracts a non-cognizable offence and therefore, the petition filed under Section 156(3) Cr.P.C., is not maintainable, dismissed the petition, which is an erroneous one.

6. Now, on considering the said submissions with the relevant records, in the impugned order, the learned V Metropolitan Magistrate has clearly held that since the offence committed by the petitioner is a non cognizable offence, it could not be forwarded to the police to register a case and it should be dealt with only under Section 155 of Cr.P.C and not under Section 154 of Cr.P.C. After mentioning as above, he has dismissed the application.

7. Of course, the reasons stated by the Magistrate may be found correct, only in the situation, if the averments found in the complaint attracts an offence punishable under Section 489 (e) of IPC alone. Here, it is a case, on going through the copy of the complaint presented before the learned V Metropolitan Magistrate, it shows that during the relevant point of time, the proposed accused instead of giving the balance amount in Indian



currency approved by the Reserve Bank of India, had given dummy three five rupees and three one rupee coins which resemble to denote five rupees and one rupee. Therefore, it would be necessary to see whether the dummy three five rupees and three one rupee coins, alleged to be given by the proposed accused, amounts to counterfeit or not.

8. In this regard, section 28 of IPC, explains the 'counterfeit' as follows:

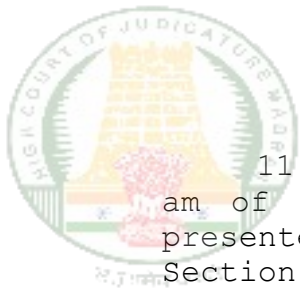
"A person is said to "counterfeit" who causes one thing to resemble another thing, intending by means of that resemblance to practise deception, or knowing it to be likely that deception will thereby be practised.

Explanation 1.—It is not essential to counterfeiting that the imitation should be exact.

Explanation 2.—When a person causes one thing to resemble another thing, and the resemblance is such that a person might be deceived thereby, it shall be presumed, until the contrary is proved, that the person so causing the one thing to resemble the other thing intended by means of that resemblance to practise deception or knew it to be likely that deception would thereby be practised."

9. In the said circumstances, only during the time of investigation, it would be possible to see whether the alleged five rupees note and one rupee coin, resemble the currency approved by RBI. So, in the absence of recovery as to the alleged counterfeit currency, this is not the time to say that the petitioner has committed an offence under Section 489 (e) alone. Prima facie, the act committed by the proposed accused shows an offence under Section 489 (c) also. In fact, the offence under section 489 (c) is a cognizable offence. In otherwise, whether the alleged counterfeit currency is used as a valuable security or not, is also to be decided during the time of trial alone.

10. In this regard, the learned Metropolitan Magistrate without going through the entire averments found in the complaint presented before him, has mechanically passed an order. Further more, the alleged offence stated by the petitioner is not only against an individual but, is against the State. In fact, before passing the order, the learned Magistrate has not considered those factors, which is unfortunate.



11. Accordingly, in the light of the reasons stated supra, I am of the opinion that the averments found in the complaint presented before the Magistrate is also to be dealt with under Section 154 of Cr.P.C., and hence, the impugned order passed is nothing but a perverse one. Therefore, the criminal revision case is allowed and the order dated 07.01.2022 passed in CrI.M.P.No.23726 of 2021 on the file of the learned V Metropolitan Magistrate, Egmore, Chennai, is set aside. The learned Judicial Magistrate is directed to forward the complaint presented before him to the respondent police, for registering the case, investigate the same in accordance with law and take further action on the basis of the investigation.

Sd/-
Assistant Registrar(CS-VIII)

//True Copy//

Sub Assistant Registrar

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To

1. The V Metropolitan Magistrate,
Egmore, Chennai.
2. The Inspector of Police,
K-1, Sembium Police Station,
Chennai.
3. The Public Prosecutor,
High Court, Madras.

+1cc to M/s.N.Iyyakannu, Advocate, S.R.No.24361

CrI.R.C.No.412 of 2022

SJ(CO)
RLP(20/04/2022)