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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.01.2022

CORAM :

THE HON'BLE MS.JUSTICE R.N.MANJULA

CRL.R.C.NO.1575 OF 2016

Chintalapudi Veera Venkata Satya Ramalingeswara Rao

...Petitioner

Vs.

Chinta Venkateswarlu @ Venkat

...Respondent

Criminal Revision filed under Sections 397 and 401 Cr.P.C praying to call for the records in C.C.No.1 of 2014 on the file of the Hon'ble Judicial Magistrate at Yanam of set-aside the order of discharge of the accused U/S 245 (1) of Cr.P.C in C.C.No.1 of 2014 by the Hon'ble Judicial Magistrate at Yanam on 11th April 2016.

For Petitioner : Mr.N.P.Kumar

For Respondent : Mr.K.Jeyaraman
Legal Aid Counsel

O R D E R

This Criminal Revision has been preferred challenging the judgment of the learned Judicial Magistrate, Yanam dated 11.04.2016 made in C.C.No.1 of 2014.

2. The revision petitioner before this Court is the complainant. Even prior to this filing of the complaint, a police complaint was given by the petitioner against the respondent for the alleged offences committed by him under Sections 420, 406 and 426 IPC. After investigation final report has been filed by referring the charge sheet. By raising objections over the final report, the revision petitioner filed a Protest Petition before the Court and that was treated as a private complaint.

3. After the complaint was taken on file, the learned Trial Judge found that there are no prima facie materials available on record to frame charges against the accused. For the above reasons, the respondent/accused was discharged from the



before the Court. If prima facie materials are produced at the out set to make out the case, the Trial Court would take the case on file.

9. After the case was taken on file, the complainant has chosen to examine himself as the one and only witness. Even when the opportunity was given to the complainant about his entitlement to examine further witnesses after framing of charges, the petitioner maintained that the evidence on record is sufficient. Therefore, the learned Magistrate has left with no other option except to analyse the materials then available on record. While appreciating the evidence, it has been observed by the learned Magistrate that the materials do not disclose an offence of cheating committed by the respondent/accused.

10. In fact from the materials produced by the petitioner/complainant, it is seen that the respondent has made an excess payment of Rs.5,00,000/- than what he was supposed to pay to the petitioner. The whole transaction between the petitioner and the respondent has arisen out of an agreement between themselves for purchase of high grade teak woods from Madhya Pradesh Government Forest Department. The learned trial Judge has made a specific observation that the payment made by the accused was in excess of the dues as borne by the documents produced by the complainant and that would show that the accused did not have any motive to cheat the complainant.

11. Even the allegations would show that the understanding between the petitioner and the respondent is a kind of a contractual agreement. For breach of promise by either of the parties, the remedy is open to knock the doors of Civil Courts. At a stage when charges have to be framed, it is obligatory on the part of the Magistrate to look little further into the binding nature of the materials against the accused and to do the needful. The order of the learned Magistrate would show that the Court had adverted into the documents produced by the complainant and its acceptability has also been discussed at length. The satisfaction about the prima facie materials at the time of taking the case on file is different from scrutinising the sufficient materials for framing of charges against the accused.

12. The distinction made by the learned Trial Judge in this context does not suffer from any factual or legal infirmity. The learned Magistrate has evaluated all the relevant materials produced before the Court after appreciating the same in correct perspective. Hence, I do not find any scope for interference.



13. In the result, this Criminal Revision is dismissed and the judgment of the learned Judicial Magistrate, Yanam dated 11.04.2016 made in C.C.No.1 of 2014 is hereby confirmed.

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Sd/-
Assistant Registrar (CS-IV)

// True Copy //

Sub Assistant Registrar

kmi

To

The Judicial Magistrate,
Yanam.

Cr1.R.C.No.1575 of 2016

KSM(CO)
RVM(16/02/2022)