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Crl.R.C.No.317 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.12.2022

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THE HONOURABLE MR.JUSTICE V.SIVAGNANAM

Crl.R.C.No.317 of 2021

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Petitioner

/vs/

1. The Superintendent of Police,
Office of the Superintendent of Police,
Erode – Post & District.
2. The Deputy Superintendent of Police,
Office of the Deputy Superintendent
of Police, Sathyamangalam-Post &
Taluk, Erode – District.
3. The Inspector of Police,
Punjai-Puliyampatti Police Station,
Punjai-Puliyampatti-Post,
Sathyamangalam – Taluk,
Erode District

...

Respondents

Prayer : Criminal Revision Case filed under Section 397 r/w.401 of Cr.P.C., praying to call for the records relating to the order made in Crl.M.P.No.522 of 2021 on the file of the Judicial Magistrate, Sathyamangalam, Erode District and set aside the same and further direct the 3rd respondent to register the case based on the complaint dated 13.12.2020 and 18.12.2020 and investigate the same.



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For Petitioner ... Mr. D. Veerasekaran
For Respondents ... Mr.V. Meganathan
Govt. Advocate (crl.side)

ORDER

This Criminal Revision Case is filed by the petitioner seeking to call for the records relating to the order made in Crl.M.P.No.522 of 2021 on the file of the Judicial Magistrate, Sathyamangalam, Erode District and set aside the same and to further direct the 3rd respondent to register a case based on the complaints dated 13.12.2020 and 18.12.2020 and investigate the same.

2. The learned counsel for the petitioner submitted that the petitioner is in possession of the property, namely, KG Thirumana Mandapam, which stands in the name of petitioner's mother. After the death of petitioner's mother, the petitioner, as a successor to his mother, has been administering the above said Thirumana Mandapam. Whiles, one sathish, who is the relative of the petitioner, claiming right over the above said property, trespassed into the property. Therefore, the petitioner filed a suit in O.S.No.80 of 2018 before the Sub Court, Sathyamangalam, wherein, he



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also got an order of interim injunction in I.A.No.311 of 2018 as against the said Sathish. Thereafter, on 13.12.2020 at 4 p.m., when the petitioner went to the said Thirumana Mandapam for cleaning purpose, he found that the lock of the said Mandapam has been broken and a new lock has been fixed on the door. On enquiry, he came to know that the above said Sathish came to the Kalyana Mandapam and broke open the old lock and fixed a new lock. In this regard, the petitioner gave a complaint before the 3rd respondent. Since, the 3rd respondent did not take any action, he gave another complaint to Superintendent of Police under section 154 Cr.P.C. Since they also did not take any action, he filed a private complaint under section 156(3) Cr.P.C. in CMP.No.522 of 2021 before the Judicial Magistrate, Sathyamangalam. As the court also have not took any action on that application, he filed Crl.O.P.No.4009 of 2021 before this Court, seeking a direction to the police to register his complaint, wherein, this court, by its order dated 3.3.2021, directed the Judicial Magistrate, Sathyamangalam to pass orders on C.M.P.No.522 of 2021 within a period of one week from the date of receipt of a copy of that order. Thereafter the learned Judicial Magistrate, passed an order on 11.03.2021 dismissing the



complaint on the ground that the complainant had not disclosed any evidence to support his case and further a civil case in O.S.No.80 of 2018 is als pending, in which, and an order of injunction has also been obtained in I.A.No.311of 2018 and being a civil case, the petitioner can work out his remedy before the concerned civil court where the suit is pending.

3. He further submitted that the court below has failed to consider the criminal trespass done by the accused. Further the learned Magistrate failed to see that the case is not purely civil in nature, but against the life threat to the defacto complainant and damage to the property of the petitioner, which is against law.

4. The learned Govt. Advocate (crl.side) appearing for the respondents supporting the order passed by the court below submitted that as there was no cognizable offence made out for registering the case, the case was not registered. He would further submit that since the case was purely civil in nature, the trial court rightly dismissed the case. Hence he pleaded to dismiss the criminal revision case.



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5. Heard the learned counsel appearing for the petitioner and learned Govt. Advocate (crl. Side) and perused the materials available on record.

6. On perusal of records, it is revealed that the petitioner in his complaint alleged that KG Thirumana Mandapam belongs to his mother. After the death of his mother on 22.11.2017, the petitioner is maintaining and administering the affairs of the said Mandapam. Whiles, since his relative one Sathish, claiming right over the said Mandapam, attempted to trespass into the property, the petitioner filed a civil suit in Sub Court, Sathyamangalam in O.S.No.80 of 2018 and also obtained an order of interim injunction against the said Sathish. In spite of interim injunction being granted, since the sathish had attempted to trespass into the Mandapam and removed the lock of the Kalyana Mandapam and fixed another lock on on 13.12.2020, the petitioner filed a complaint. Now the learned Magistrate has passed the impugned order rejecting the complaint on the ground that already a civil suit is pending between the parties and interim injunction also was obtained against the said Sathish. Therefore, the issue being civil in nature, the learned Magistrate has rightly directed



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to work out his remedy before the civil court. Therefore, I find no reasons to interfere with the order passed by the learned Magistrate. The petition is devoid of merits and hence the same is liable to be dismissed.

7. Accordingly, the Criminal Revision Case is dismissed. If the accused commits any criminal trespass, the petitioner is at liberty to file a fresh complaint to the police and the police may take action on such complaint against the person concerned.

08.12.2022

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Index : Yes/No

Internet: Yes/No

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4. The Public Prosecutor, High Court, Madras.

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V.SIVAGNANAM,J.

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