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Crl.RC.No.1155 of 2022



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.09.2022

Coram:

THE HONOURABLE **MR. JUSTICE P.VELMURUGAN**

Criminal Revision Case No.1155 of 2022

M.Parthiban

S/o. Mani representing as Area Manager

CCFID Nethi Niruvanam, Kangeyanallur Branch

Vellore, Vellore District.

... Petitioner

Vs.

The Inspector of Police

District Crime Branch

Vellore District, Vellore

Crime No.24 of 2019

... Respondent

Prayer: Criminal Revision filed under Section 397 and 401 of Criminal Procedure Code, praying to issue direction to the respondent to reopen the case and to do further investigation in Crime No.24 of 2019.

For Petitioner : Mr.Dharani Kasinathan

For Respondents : Mr.S.Sugendran
Additional Public Prosecutor

**ORDER**

This Criminal Revision Case has been filed seeking for a direction to the respondent police to reopen the case in Crime No.24 of 2019 and to do further investigation.

2. The petitioner is the complainant. The petitioner had filed a complaint before the respondent police and the same was registered in Crime No.24 of 2019 against the accused persons for the offences under Sections 109, 409, 420 and 477A IPC and after investigation, they closed the case as “Further Action Dropped (FAD). Aggrieved over the same, the petitioner approached the Judicial Magistrate, Katpadi, by way of protest petition and the learned Magistrate returned the same stating reasons that this Court in CrI.O.P.No.19956 of 2019 dated 05.08.2019 has already observed that the matter involved is a money dispute and it is for the parties to adjudicate the same before the appropriate Civil Court. Against which, the present revision has been filed before this Court.

3. The learned counsel for the petitioner would submit that accused had misappropriated company funds and also fabricated certain documents. Therefore, they had filed a complaint before the respondent police and the same was registered in Crime No.24 of 2019. However, after investigation,



the respondent police filed a closure report. Hence, the petitioner approached the Magistrate by way of protest petition. In the mean time, the accused filed a petition before this Court seeking for a direction to the respondent police not to harass him in which, the accused by misguiding the Court and by suppressing the materials facts, obtained an order that the issue is civil in nature. The learned Magistrate failed to consider the prima facie materials and the criminality committed by the accused and returned the protest petition filed by petitioner by simply referring the order of this Court which warrants interference.

4. The learned Additional Public Prosecutor appearing for the respondent police would submit that based on the complaint given by the petitioner, FIR was registered in Crime No. 24 of 2019 and since the investigation revealed that it was a civil dispute, they filed closure report before the Magistrate. Aggrieved over the same, the petitioner approached the Magistrate by way of protest petition and the learned Magistrate rightly dismissed the same. Hence, there is no perversity in the order passed by the learned Magistrate.



5. Heard the learned counsel for the petitioner and the learned Additional Public Prosecutor appearing for the respondent police and also perused the materials on record.

6. It is seen that based on the complaint given by the petitioner, the respondent police have registered FIR in Crime No.24 of 2019 against the accused person for the offences under Sections 109, 409, 420 and 477A IPC and after investigation, they have filed negative report before the Magistrate. Challenging the same, the petitioner approached the Magistrate by way of protest petition and the learned Magistrate returned the same directing the parties to approach this Court for appropriate remedies.

7. A perusal of the Original complaint given by the petitioner clearly shows that though the accused had misappropriated company funds and created certain forged documents, the petitioner had not immediately filed any complaint for the commission of offence. They themselves have called the accused and insisted him to pay the misappropriated amount and that the accused has also agreed to pay the same for which, the complainant has also obtained acknowledgment from the accused. Subsequently, the accused



has also repaid a sum of Rs.1 lakh and till then, the petitioner has not lodged any complaint against the accused who is alleged to have misappropriated funds and fabricated documents. Thereafter, the accused has failed to repay the balance amount as promised by him. Only thereafter, the petitioner has lodged the present complaint before the respondent police. Therefore, this Court has rightly observed in the petition filed by the accused in CrI.O.P.No.19956 of 2019 dated 05.08.2019 that it is a money dispute and that the learned Magistrate has also rightly returned the protest petition. Therefore, this Court does not find any perversity, illegality or infirmity in the order passed by the learned Magistrate.

8. Accordingly this Criminal Revision Case is dismissed.

9. The petitioner is at liberty to file suit for recovery of money.

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P.VELMURUGAN,J.

ksa-2

To

1. The Judicial Magistrate, Katpadi

2. The Inspector of Police
District Crime Branch
Vellore District, Vellore

3. The Public Prosecutor
High Court of Madras

Criminal Revision Case No.1155 of 2022

30.09.2022