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Criminal Revision Case No. 891 of 2021.

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.12.2022

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THE HONOURABLE Mr. JUSTICE V.SIVAGNANAM

Criminal Revision Case No. 891 of 2021

Jayabalan

.. Petitioner /Complainant

Vs.

1. The Commissioner of Police
Greater Chennai Corporation
No.132, Commissioner Office Building
EVK Sampath Road
Vepery, Chennai – 600 007.

2. The Inspector of Police
J-9, Thoraipakkam Police Station
Chennai – 600 092.

3. Appaswamy Real Estate Ltd.
Rep. By its Managing Directors
No.3, Mangesh Street, T.Nagar
Chennai – 600 017.

.. Respondents/Respondents

Criminal Revision Case filed under Section 397 read with 401 of the
Code of Criminal Procedure, 1973 to set aside the order in C.M.P. No. 912 of
2021 dated 23.07.2021 on the file of Judicial Magistrate No.II, Alandur.



For Petitioner : Mr. C.Sai Krishna
For Mr. V.Raghavachari

For Respondents : Mr. V.Meganathan (For R1 and R2)
Govt. Advocate (Criminal Side)

ORDER

The Revision Petition has been filed challenging the impugned order dated 23.07.2021 passed in C.M.P. No. 912 of 2021 by the Judicial Magistrate-II, Alandur.

2. The Learned Counsel for the Petitioner submitted that the Petitioner is an independent contractor. The accused approached him to execute a contract on 15.10.2019. The consideration was fixed at Rs.55,11,000/- and an advance amount of Rs.10,00,000/- was paid and construction work has been started. However there is a breach of obligations. The workmen deputed by the petitioner, who were carrying on construction activities, were never permitted to do the construction works and hooligans and rowdies were engaged by the accused and they assaulted them with iron rods and heavy sticks and the petitioner's workmen were injured and hospitalized. Under these circumstances, he lodged a complaint on 15.02.2021 to the Inspector of



Police, Thoraipakkam, Chennai – 600 097 against the accused persons viz., M/s.Appaswamy Real Estates Limited, but the police refused to take cognizance of the same and register case. Hence, he filed an affidavit along with petition before the Judicial Magistrate No.II, Alandur for the offences under Sections 352, 406, 420, 425 and 506(ii) IPC. The learned Magistrate, after considering this dismissed as no documents have been produced to evidence the allegation of assault and misappropriation by order dated 23.07.2021 in C.M.P. No. 912 of 2021, which is now under challenge.

3. The Government Advocate (Criminal Side) submitted that there is a civil dispute between the petitioner contractor and the accused persons. Further, there is no medical evidence to support the allegations that the petitioner persons were assaulted and hospitalized.

4. Further contended that the learned Magistrate has rightly dismissed the complaint, as there is no criminal offences or *prima facie* case is made out in the petition and no documents were produced by the petitioner for the treatment undergone by the petitioner's workmen in the hospital and also not revealed the name of the persons injured by the third respondent and therefore, there is no reason to interfere with the impugned order.



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5. I have considered in the light of the submissions made by the learned counsel for the parties.

6. On a perusal of the record, it reveals that the petitioner filed a complaint before the learned Judicial Magistrate with a petition to forward the complaint and register a case under Section 156 (3) of Cr.P.C.

7. Further, in the affidavit it is alleged that the petitioner is an independent contractor and on 15.02.2021, the accused by engaging hooligans and rowdies assaulted his workmen with iron rods and heavy sticks and the workmen were injured and hospitalized and also there is a breach of contract and the accused person has to pay a sum of Rs.23,00,000/-.

8. Further the complaint had not been accompanied with any medical documents to support his allegation that the workmen were assaulted and hospitalized and further, for breach of contract no document has been filed. The Trial Court has rightly after considering the absence of any supporting evidence for the allegations of assault dismissed that complaint.



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9. In find that there is no reason to interfere with the order passed by the learned Judicial Magistrate No.II, Alandur and find no merits. Hence, the Criminal Revision is dismissed. No costs.

08.12.2022

Maya

Internet : Yes/No

Index : Yes/No

Speaking /Non-speaking order

To

1. The Judicial Magistrate No.II
Alandur.
2. The Commissioner of Police
Greater Chennai Corporation
No.132, Commissioner Office Building
EVK Sampath Road
Vepery, Chennai – 600 007.
3. The Inspector of Police
J-9, Thoraipakkam Police Station
Chennai – 600 092.
4. The Public Prosecutor
Madras High Court, Chennai.



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V.SIVAGNANAM, J.

Maya

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