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Crl.RC.No.1048 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.11.2022

Coram:

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

Criminal Revision Case No.1048 of 2021

M.Rabidheen

... Petitioner

Vs.

1. Rahamadulla
2. Perumalsamy
3. Appadurai
4. P.R.Steephan
5. Selvaraj

6. State by

Inspector of Police

Udumalpet Police Station

Tiruppur District

(R6-implemented as per order in Crl.M.P.No.605 of 2022 in

Crl.RC.No.1048 of 2021 dated 24.01.2022)

... Respondents

Prayer: Criminal Revision filed under Section 397 and 401 of Criminal Procedure Code, praying to set aside the order dated 15.09.2021 in Crl.M.P.No.1405 of 2021 on the file of Judicial Magistrate No.1, Udumalpet and allow the petition under Section 156(3) Cr.P.C. filed by the petitioner seeking direction to register his complaint dated 08.02.2021.



For Petitioner : Mr.N.Ponraj

For Respondents : Mr.A.Sathish Kumar for R1
Mr.Prabhu.C for R2
Mr.K.Govi Ganesan for R3
Mr.I.Anantharaj for R4
Mr.S.Lakshmipathy for R5
Mr.S.Sugendran
Additional Public Prosecutor for R6

ORDER

This Criminal Revision Case has been filed seeking to set aside the order dated 15.09.2021 in Crl.M.P.No.1405 of 2021 on the file of Judicial Magistrate No.1, Udumalpet and allow the petition filed under Section 156(3) Cr.P.C. by the petitioner seeking a direction to register his complaint dated 08.02.2021.

2. The case of the petitioner is that he is a Tailor by profession and he had received an Advocate notice on 04.01.2019 stating that the petitioner had not repaid the sum of Rs.1 lakhs borrowed from one Perumalsamy belongs to Pollachi. The petitioner sent reply to the said Perumalsamy and his Advocate stating that he never borrowed any money from any one and he did not know who is Perumalsamy. The reply notice sent to the said



Perumalsamy was returned as “Not Known”. Hence, the petitioner lodged a complaint in East Police Station, Pollachi, and the same was registered in Petition No.26 of 2019 and after enquiry, the complaint was closed stating that the said Perumalsamy not resided in the notice mentioned address. Subsequently, the petitioner received a private notice dated 27.06.2019 to appear before the Sub Court, Pollachi, in O.S.No.37 of 2019 on 30.07.2019 or else, his properties would be attached. On 30.07.2019, the petitioner appeared before the Court and through his Counsel, he also inspected the subject matter of promissory note and found that his signature was forged and based on the forged promissory note, the suit in O.S.No.37 of 2019 was filed. Subsequently, he came to know that one Rahamadulla belongs to Udumalpet, who is none other than his brother's father-in-law, due to family dispute, made use of one Perumalsamy who had worked under the petitioner and also with the help of Writer Annadurai, witnesses Stephen and Selvaraj, forged the signature of the petitioner and created forged documents at the office of the Writer Appadurai. Hence, he filed a complaint before the Superintendent of Police, Tiruppur and pending enquiry, the said Rahamadulla agreed to withdraw the suit and therefore, the petitioner withdrew the complaint. However, still the said Rahamadulla is continuing



the said suit. Therefore, the petitioner filed a complaint before the Judicial Magistrate, No.1, Udumalpet, under Section 156(3) Cr.P.C. to direct the police to register the case based on the complaint given by the petitioner and to investigate the matter and take action against the accused persons. On hearing of the petition, the learned Magistrate found that already a civil suit is pending and since the dispute is civil in nature, dismissed the petition by order dated 15.09.2021. Challenging the said order, the present revision has been filed before this Court.

3. Heard the learned counsel for the petitioner, the learned counsel for the respondents 1 to 5 and the learned Additional Public Prosecutor appearing for the respondent police/R6 and perused the materials available on record.

4. The case of the petitioner is that the respondents by forging the signature of the petitioner, created promissory note and based on the forged document, have filed suit against the petitioner. Hence, the petitioner filed a petition under Section 156(3) Cr.P.C. to register his complaint and to investigate the matter. The learned Magistrate dismissed the said petition



stating that the case is civil in nature and already civil suit is pending between the parties with reference to the forged promissory note.

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5. Admittedly, the matter is pending before the Civil Court. The Civil Court has got every power to declare as to whether the subject matter of the suit promissory note is a genuine one or forged one. In case, if the Civil Court finds that the said promissory note is a forged one, then the Court can take action against the persons who forged the same. Since already suit is pending between the parties and the subject matter of the alleged forged promissory note is under scrutiny of the Civil Court, this Court is not inclined to interfere with the order passed by the learned Magistrate.

6. Accordingly, this Criminal Revision Case is Dismissed.

25.11.2022

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P.VELMURUGAN,J.

Ksa-2To

1. The Judicial Magistrate No.1,
Udumalpet
2. Inspector of Police
Udumalpet Police Station
Tiruppur District
3. The Public Prosecutor
High Court, Madras

Criminal Revision Case No.1048 of 2021

25.11.2022