



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 23.03.2022

CORAM:

WEB COPY

THE HONOURABLE MR.JUSTICE **G.K.ILANTHIRAIYAN**
Crl.R.C. (MD)No.292 of 2022

S.Vijaya

... Petitioner/
Defacto Complainant

Vs.

1. The Inspector of Police,
Bodinayackanur Taluk Police Station,
Bodinayackanur,
Theni District.

...1st Respondent/
Complainant

2.Govindaraj

... 2nd Respondent/
Proposed accused

Prayer : This Criminal Revision has been filed under Section 397 r/w 401 of Criminal Procedure Code, to call for the records pertaining to the impugned order passed by the learned Judicial Magistrate, Bodinayackanur in Cr.M.P.No. 4726 of 2021, dated 28.02.2022 and set aside the same.

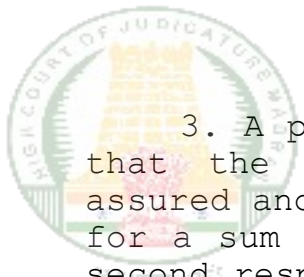
For Petitioner : Mr.Karuppasamy Pandian
for Mr.R.Vignesh

For Respondents : Mrs.M.Aasha
Government Advocate (Criminal Side)

O R D E R

This Criminal Revision Petition has been filed to set aside the impugned order passed by the learned Judicial Magistrate, Bodinayackanur in Cr.M.P.No. 4726 of 2021, dated 28.02.2022

2. However, the learned Magistrate conducted an enquiry as if the said complaint was filed under Section 200 Cr.P.C and dismissed the complaint under Section 203 Cr.P.C, which is not permissible under the Criminal Procedure Code. It is nothing but an error committed by the learned Magistrate to conduct an detailed enquiry without following the procedure laid under Sections 201 and 202 Cr.P.C.



3. A perusal of the complaint lodged by the petitioner revealed that the second respondent approached the petitioner and also assured and promised that he would get the property for sale totally for a sum of Rs.6,00,000/- (Rupees Six Lakhs only). However, the second respondent did not act upon his parents and failed to return the amount borrowed by him. Initially, the petitioner lodged a complaint before the first respondent police and he was issued CSR No.388 of 2021. Thereafter, the first respondent conducted an enquiry and the same was closed. Thereafter, the petitioner also lodged a complaint and closed. Thereafter, the petitioner lodged a complaint before the police officials to take appropriate action. Though the petitioner filed a petition seeking direction under Section 156(3) Cr.P.C, the complaint lodged by the petitioner was already enquired into by the first respondent and the same was closed. Therefore, the learned Magistrate rightly treated the petition as a private complaint under Section 200 Cr.P.C and conducted enquiry. While enquiry, the petitioner was examined as P.W.1. When the petitioner was examined before the learned Magistrate, he did not raise any objection and he has given the statement before the learned Magistrate. After rejecting his complaint, he cannot raise a ground that he filed the petition for direction under Section 156 (3) Cr.P.C. The learned Magistrate had no jurisdiction to conducted an enquiry on the complaint lodged by the petitioner.

4. In view of the above, this Court finds no infirmity or illegality in the order passed by the learned Magistrate Court. This Criminal Revision Case is dismissed.

Sd/-

Assistant Registrar (CS I)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

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To:-

1.The Judicial Magistrate,
Bodinayackanur.

2.The Inspector of Police,
Bodinayackanur Taluk Police Station,
Bodinayackanur,
Theni District.



3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

Copy to:

The Section Officer,Criminal Section,
Madurai Bench of Madras High Court,
Madurai.

Crl.R.C. (MD) No.292 of 2022
23.03.2022

MGJ(21.04.2022) 3P 6C